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## Legislative Assembly of Ontario

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## Assemblée législative de l'Ontario

Deuxième session, 39<sup>e</sup> législature

# Official Report of Debates (Hansard)

Wednesday 24 March 2010

# Journal des débats (Hansard)

Mercredi 24 mars 2010

## Standing Committee on Regulations and Private Bills

Draft report on regulations

## Comité permanent des règlements et des projets de loi d'intérêt privé

Rapport préliminaire  
sur les règlements



Chair: Michael Prue  
Clerk pro tem: Trevor Day

Président : Michael Prue  
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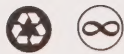
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Hansard Reporting and Interpretation Services  
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Toronto ON M7A 1A2  
Téléphone, 416-325-7400; télécopieur, 416-325-7430  
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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE  
ON REGULATIONS  
AND PRIVATE BILLS

Wednesday 24 March 2010

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES  
RÈGLEMENTS ET DES PROJETS DE LOI  
D'INTÉRÊT PRIVÉ

Mercredi 24 mars 2010

*The committee met at 0900 in room 151.*

## DRAFT REPORT ON REGULATIONS

**The Chair (Mr. Michael Prue):** Okay. It is 9 o'clock. The bells have stopped ringing. We have people from all parties. Today should be a relatively easy day for the committee. It's the consideration of the draft report on regulations. There are no recommendations being made. There is some general discussion. We can either approve the report today or, if you need more time, we can come back next week to complete it.

Having said that, I turn it over to legislative counsel. We're going to deal with each of the areas in turn and ask questions rather than deal with the whole report and then get at it. I think that makes more sense. So, the floor is yours.

**Ms. Marta Kennedy:** I'm Marta Kennedy. I'm with the legislative research service. I'm here, as you know, to present to you the draft report on regulations made in the first half of 2008. I'm going to just start with a very quick overview of the committee's role and the role of legislative research in the process, and then take you through the report.

By way of background, the Standing Committee on Regulations and Private Bills is required under section 33 of the Legislation Act, 2006, and under standing order 108(i) to conduct a review of the regulations made in Ontario each year. For the purpose of this review, the lawyers of legislative research act as counsel to the committee.

As you know, regulations, unlike statutes, aren't made by the Legislature. So the purpose of the regulations review is to provide legislative oversight of those regulations that have been made during the past year and to make sure that those regulations have been made in accordance with the limits that you, the Legislature, have set in the statutes.

There are nine guidelines in the standing orders, but the underlying principle under all of these guidelines is really: Was the regulation made in accordance with the limits imposed by the statute? That's really the principle for all of them.

The basic procedure that legislative research follows is this: The regulations are made by cabinet or by the minister or whoever. They're published in the Ontario Gazette and then the lawyers at legislative research

review the regulations, and if we see anything that looks like it might violate the standing orders, we prepare a letter that's sent to the appropriate ministry asking them about this potential issue. They respond and if the response satisfies the concerns we've raised, then that's the end of the matter. If we think that there may still be a problem with the regulation, we include it in the draft report and bring it to your attention, and that's what we're here for today.

**Mr. Bill Murdoch:** Can we ask questions—

**The Chair (Mr. Michael Prue):** If you need to, go ahead.

**Mr. Bill Murdoch:** Can I ask a question, then?

**The Chair (Mr. Michael Prue):** The floor is yours.

**Mr. Bill Murdoch:** I've never seen one ever come back. Does it ever happen, like a regulation to this committee that we would look at?

**Ms. Marta Kennedy:** I'm not quite sure what you mean.

**Mr. Bill Murdoch:** What I took from what you just said there is that the bill is passed and then cabinet, we'll say, makes the regulations and then it goes to a bunch of lawyers and they look at it to see whether it's right or wrong. If you felt there was something wrong with it, you'd send it to this committee. I thought that's what you said.

**Ms. Marta Kennedy:** Yes. What happens is, legislative research looks at them after they've been made.

**Mr. Bill Murdoch:** Right. Okay.

**Ms. Marta Kennedy:** What happens then is, if we think that there's a problem, we discuss it with the ministries. Then the regulations that we think there may be a problem with are included in this report. There is a number of regulations listed in this report with discussions.

**Mr. Bill Murdoch:** Okay, so where do you get them?

**Ms. Marta Kennedy:** It's being presented to you now. In actual fact, there is a regulation included in here where there's a bill before the House right now where they're actually introducing provisions to fix the problem with the regulation, which is interesting.

**Mr. Bill Murdoch:** Okay. I've never been here in this committee when we've done anything like this.

*Interjection.*

**Mr. Bill Murdoch:** Did we?

**The Chair (Mr. Michael Prue):** Every year.



**Mr. Bill Murdoch:** You must have had it when I was away. You snuck one in.

**The Chair (Mr. Michael Prue):** You were away in that other province.

**Mr. Bill Murdoch:** I was over in Toronto, yes.

**Mr. Jeff Leal:** Remember, Bill, these are Toronto lawyers.

**Mr. Bill Murdoch:** I know.

**Mr. Jeff Leal:** I have a question, Michael.

**The Chair (Mr. Michael Prue):** Okay, Mr. Martiniuk and then Mr. Leal.

*Interjection.*

**The Chair (Mr. Michael Prue):** Okay, Mr. Leal, then Mr. Martiniuk.

**Mr. Jeff Leal:** I'd just like to follow up from Mr. Murdoch. If the legislation gets passed, of course, then there's a series of—I always look at this from my municipal days. You have the official plan, the piece of legislation, and then you have a zoning bylaw, which implements the outlines and the goals articulated in the official plan. If, in fact, we had a piece of legislation and the subsequent regulations but there was a problem with the regulation where it didn't match or wasn't consistent with what was put in the legislation, does that get reviewed? Is that what you were saying?

**Ms. Marta Kennedy:** Yes.

**Mr. Jeff Leal:** So I understand this?

**Ms. Marta Kennedy:** Yes, that's what the regulation part of this committee is for. So because—

**Mr. Bill Murdoch:** I often wondered about that on this committee: Would a regulation ever come in?

**Mr. Jeff Leal:** Would we then see the corrected regulation that would be consistent with what was intended in the legislation?

**Ms. Marta Kennedy:** Well, it depends. What happens is, the report is prepared and, because there are 400, 500 or 600 regulations made every year, it's really not possible for this committee to go through each individual regulation, so legislative research does it on your behalf. It prepares the report and presents what it considers to be the outstanding issues. Then this report, once approved, gets tabled in the House. What happens after that is up to the House.

**The Chair (Mr. Michael Prue):** It's up to the House. The thing is, we cannot change the regulations. All we can do is report to the House that these are the potential problems and issues, and then the House deals with them as the House sees fit.

**Mr. Jeff Leal:** I was just inquisitive.

**Mr. Bill Murdoch:** If we thought there was a potential regulation—or somebody on this committee felt that it wasn't right, can we bring that up and have you look at it again?

**The Chair (Mr. Michael Prue):** It can be part of the report.

**Mr. Bill Murdoch:** Okay. So if the Toronto-based lawyers didn't think there was a problem—

**Mr. Jeff Leal:** I shouldn't have told you that.

**Mr. Bill Murdoch:** No. If we thought there was a problem—they didn't think there was one but one of us in this committee did or something, we could have that added? Or we could at least discuss it at this committee? I'm not trying to be difficult here; I don't understand. I'm just trying—

**The Chair (Mr. Michael Prue):** It is our report. We have guidelines to follow. It is our report. Yes, we can do it. Whether the House wants to follow something that the lawyers have said is not a problem but we think is, that's up to the House.

**Mr. Bill Murdoch:** Oh, yes. I understand that all power goes back to the House.

**The Chair (Mr. Michael Prue):** I have Mr. Martiniuk and then I have Mr. Miller.

**Mr. Gerry Martiniuk:** Could you tell me approximately—not exactly: How many regulations have we passed in 2009? Of those, what percentage would relate to new statutes, and which would relate to amendments of higher regulations?

**Ms. Marta Kennedy:** I don't actually have those numbers for 2009 with me. I know that the library does, but I don't have them here at the moment. If you look on page 4 of the report, it does give you some statistics on regulations passed in 2008. It doesn't break them down quite the way you asked for. It talks about new regulations, so completely new regulations that have been filed; regulations that have revoked other regulations; and then regulations that are amendments to existing regulations.

**Mr. Gerry Martiniuk:** Yes, it does have the amendments: amended regulations filed, which would be what I asked, I guess, in other words; original regulations pursuant to a new statute; and then regulations amending prior regulations. Is that what that statistic is?

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**Ms. Marta Kennedy:** The statistic for amending regulations is amendments to regulations that currently exist. The new regulations filed may simply be new regulations made under previous statutes. So they didn't have a regulation on—there are a number of them, actually, or there's at least one in this report. There's a regulation under the environmental assessment acts that has to do with environmental assessments for transit projects. That's a new regulation, but it's under an existing act.

**Mr. Gerry Martiniuk:** You're losing me. You mean it's under an act—when it's headed "New regulations," it says "New regulations filed." For instance, in 2008, 60 were filed, and there is a total of 456 regulations filed. So I assume, from looking at that, that the new regulations filed were pursuant to statutes that, prior to that, did not have regulations in effect, whereas the remainder would be amendments of prior regulations.

**Ms. Marta Kennedy:** Not necessarily.

**Mr. Gerry Martiniuk:** Okay, tell me why that isn't true.

**Ms. Marta Kennedy:** Okay. Say you have the Highway Traffic Act. It has a lot of regulations. Then they



decide that they need a new regulation under the Highway Traffic Act to deal with taxis on highways. Say they do; I don't know why they would, but say they do. They have the power, already existing in the statute, to make regulations about taxis on highways, so they decide, "Okay, we're going to make a new regulation." It's a new set. They make that regulation, and it would be included in this number 60.

**Mr. Gerry Martiniuk:** Which number?

**Ms. Marta Kennedy:** The new regulations filed.

**Mr. Gerry Martiniuk:** Number 60. Yes, okay.

**Ms. Marta Kennedy:** But that number would also include, say, a statute that was passed last year or the year before—a brand new statute and any regulations made under that statute. So a brand new statute—I can't think of anything that was passed last year.

**Mr. Gerry Martiniuk:** Why would they call it "new" if it was amending prior regulations? I don't understand the wording.

**Ms. Marta Kennedy:** It's not actually amending the regulation; it's like they're making two sets under the same umbrella, under the same law.

**Mr. Gerry Martiniuk:** Under the consolidated regulations, they would not be shown as one regulation?

**Ms. Marta Kennedy:** No. They would have different reg. numbers. The regulation under the Highway Traffic Act that deals with speeding would be O.Reg. 240/98, and the reg. dealing with taxis on highways would be O.Reg. 42/09, say. They're just kept separately; they don't lump them all together. They could—they could—but they don't, just for ease of use. It's a drafting thing.

**Mr. Gerry Martiniuk:** Okay. So those aren't "new" regulations.

**Ms. Marta Kennedy:** Not in the sense that you're saying.

**Mr. Gerry Martiniuk:** No, no, in the sense that you've just described. I understand that.

**Ms. Marta Kennedy:** Yes. Okay.

**Mr. Gerry Martiniuk:** Now we have total regulations, 456, which means that approximately 300-and-some regulations were made, and they were not made pursuant to new statutes. Correct?

**Ms. Marta Kennedy:** Yes.

**Mr. Gerry Martiniuk:** They are, in effect, cleaning up, or they're amendments of prior regulations that the government wishes changed, for whatever reason.

**Ms. Marta Kennedy:** Yes.

**Mr. Gerry Martiniuk:** And those are not subject to public purview during the discussion period. They do not become public until they're actually put in the regulations, correct?

**Ms. Marta Kennedy:** Well, it depends. Probably the best people to answer that are legislative counsel, because they're actually involved in the drafting of the regulations; we only see them afterwards. But it depends on the ministry. There are some regulations that are sent out for public hearings beforehand. For example, the new regulations under the Mining Act are currently out for

public hearings, I understand, with the Ministry of Natural Resources.

**Mr. Gerry Martiniuk:** That's the only one that I know of.

**Ms. Marta Kennedy:** Yes, but environmental regulations are also published beforehand on what's called the Environmental Registry. That's a government website that lists a whole variety of environmental changes and issues. So you can look at those there, but generally speaking, unless the ministry decides to make them public beforehand, they are not public, from what I understand.

**Mr. Gerry Martiniuk:** Can we have 2009? We surely have those statistics now. Can we not use 2009 in addition to 2008? Is there a reason we don't have 2009? This is 2010. It's the third month. I would assume it's available. Why would we not include them? Because this is a report dealing with 2009, isn't it?

**Ms. Marta Kennedy:** No, it's not, actually. It's a report dealing with 2008, which is unfortunate, but—

**Mr. Gerry Martiniuk:** Why are we dealing with 2008 when 2009 has now elapsed? I hate to give you the bad news. I'm one year older and for me that's not good.

**Ms. Marta Kennedy:** So am I.

**Mr. Gerry Martiniuk:** Explain why we're not dealing with 2009.

**Ms. Marta Kennedy:** It's an excellent question. This report was prepared in the fall of 2009, and for a variety of reasons it wasn't possible for it to come before the committee, so we're looking at it now.

**Mr. Gerry Martiniuk:** Why aren't we looking at 2009 now too? Why don't we have two separate reports in front of us, just so we can compare the two years and see what's happening, whether there are more regulations, fewer regulations? Wouldn't that be constructive to—

**Ms. Marta Kennedy:** I'm sure it might be. We have the statistics, as I said. The statistics for 2009 are available. The review of the 2009 regulations has not yet been done because that relies on the lawyers at legislative research getting through all—however many—500 regulations that were filed in 2009, and that hasn't been done yet.

**Mr. Gerry Martiniuk:** Has some of it been done? Can we do an interim report, for instance?

**Ms. Marta Kennedy:** If you would like an interim report, we can provide an interim report.

**Mr. Gerry Martiniuk:** But we do have the 2009 statistics.

**Ms. Marta Kennedy:** Yes, absolutely.

**Mr. Gerry Martiniuk:** And those could be included in this report, even though it's a 2008 report.

**Ms. Marta Kennedy:** Yes.

**Mr. Gerry Martiniuk:** Okay. Thank you.

**The Chair (Mr. Michael Prue):** Mr. Miller and then Mr. Leal.

**Mr. Paul Miller:** If I understand you correctly, the regulations are made by the government or the cabinet—or changes to the regulations. Would they determine



whether they should go out for a public review or not on a particular regulation? You mentioned one. But if the opposition parties or members of this committee have a problem with the regulation changes, for example, the Environmental Assessment Act, which I already have a problem with, with what they're doing here, where does it go from here? You note our complaint or we put it into the report; it goes from here back to the government again, who already changed the regulation without conferring with us. It goes back to them and they squash it or do whatever they want with it. What happens then? What are we doing here?

**The Chair (Mr. Michael Prue):** I don't know that this is a fair question. We present it to the House, to everyone in the House—107 members, government and opposition—and then the House determines what to do with it.

**Mr. Paul Miller:** Okay, but my point is, if the government has already made the changes through the ministry with the government's approval and they send it to this committee for review and it goes back, I'm saying that they've already made their decision on the regulation. I don't remember any discussions about regulations in the House. I don't know what the purpose is here. We just look at it, say, "Very nice," send it back to them and they just do what they're going to do anyway?

**Mr. Tony Ruprecht:** A second sober thought.

**Mr. Paul Miller:** So I'm confused. What is my role? What is our role here? Are we just to look at something that has already been rubber-stamped?

**The Chair (Mr. Michael Prue):** Somebody said "sober second thought." I think that's what it is. We have to look at it. If we see some real difficulty with it, we advise the House.

**Mr. Paul Miller:** Sober second thought—what is that?

**The Chair (Mr. Michael Prue):** All of the regulations in law must be made by the cabinet—by the minister or by the cabinet. That's the law. They're not made by this committee.

**Mr. Paul Miller:** Mr Chair, what I'm trying to say is, what is our role? If we're simply to read it, it's a done deal, it goes back to the House and it's not discussed publicly except if they choose to discuss it. Regulations aren't discussed in the House. I'm trying to find out exactly what I'm doing here.

**The Chair (Mr. Michael Prue):** The public discussion is here, but also, as an example, say that something was very egregious to you: You could take it back to the House leader of the NDP, you could say, "This is really wrong," and the NDP has an opportunity to put forward motions and the Conservatives have the opportunity to put forward motions. The government has the opportunity to interface directly with the minister. But motions can be put before the House to change it.

0920

**Mr. Paul Miller:** Interesting.

**Mr. Bill Murdoch:** But when you bring this report to the House, it will just be one of those things that everybody goes, "Yeah." I mean, is that what happens?

**The Chair (Mr. Michael Prue):** It will be reported to the House. The House will then have it.

**Mr. Bill Murdoch:** But nothing ever happens.

**Mr. Paul Miller:** But the motion can be brought forward from the opposition parties. It could be brought forward; you're correct. What I'm saying is, if they've already made the changes with the agreement of the cabinet, an agreement with the ministry, when you go back there it's kind of like spinning your wheels because you're going to make the motion and they're going to say, "The hell with your motion. We're going ahead and doing what we want to do anyway."

What I'm trying to say is, exactly what is my function here with this? It seems like the legislative lawyers, the cabinet and the government have already made their decision on what they're going to do on this regulation.

**Mr. Lou Rinaldi:** On a point of order, Mr. Chair: I appreciate what my colleague is trying to get at, and I think it's fair that he asks those questions. But I think, if I'm not mistaken, he's referring to procedures that this institution runs by, and that's not what we're here for today. If it's to do with—

**The Chair (Mr. Michael Prue):** I empathize with what you're saying, but how is that a point of order?

**Mr. Paul Miller:** I think you're just cutting off debate. That's all that is. I don't know what that was.

**The Chair (Mr. Michael Prue):** If I can: We all know what our role is in the House. If you're on the government side, it's to back the government legislation. If you're on the opposition side, it's to point out things that are wrong.

When we have this kind of public debate, if you feel strongly that something is wrong with a regulation, there is ample opportunity for opposition members to stand in the House and talk about it. That's really—

**Mr. Paul Miller:** You mean in question period?

**The Chair (Mr. Michael Prue):** You could do it in question period, yes. You could do it whenever there was a motion. You could bring forward a motion if it was an NDP motion day. There's ample opportunity.

**Mr. Paul Miller:** Okay. I guess I got a half answer. That's fine. Whatever.

**Mr. Gerry Martiniuk:** Where is our authority to even do it? I assume there's somewhere we have an authority to take a look at regulations. Otherwise, we would not. What is the authority that we're acting under?

**The Chair (Mr. Michael Prue):** I'll ask the clerk to find the standing order and—

**The Clerk pro tem (Mr. Trevor Day):** It's 108(i).

**The Chair (Mr. Michael Prue):** It's 108(i), he informs me.

**Ms. Marta Kennedy:** The standing order is 108(i), and it's actually reproduced for you at the end of the draft report in appendix B, which is on page 14.

I should point out that under the standing orders, all regulations are permanently referred to the committee, so you can look at previous regulations if you like. But the committee's scope is restricted to the scope and method of the exercise of the delegated legislation power. It's not



to look at the merits of the policy or the objectives that the regulation is supposed to bring about. That's what is set out in the standing orders.

**The Chair (Mr. Michael Prue):** Okay, I'll get back to you, Mr. Miller. I have Mr. Leal, and then back to Mr. Miller.

**Mr. Jeff Leal:** I don't want to prolong this. I just want to verify something, particularly with the Ministry of the Environment, the EBR. Regulations can be placed on EBR for public scrutiny and review for 30, 60 and 90 days.

**Mr. David Caplan:** Or if they're prescribed by the ministry—

**Mr. Jeff Leal:** Or if they're prescribed by the ministry to do so. Is that correct?

**Ms. Marta Kennedy:** I believe so, yes. I know that in various statutes, they are required to be put in the registry for review, yes.

**Mr. Jeff Leal:** Just in response to Mr. Miller: Now that I attend House leaders' on Wednesdays, there is an opportunity. If something is truly wrong, Mr. Kormos and Mr. Bisson flag it to them and that would be one of the topics of discussion at the House leaders' meeting on Wednesday, to see if it might be resolved that way. Now that I've attended a couple of these, there are quite interesting discussions that take place, and give and take on all sides.

**The Chair (Mr. Michael Prue):** Okay, back to Mr. Miller and then to Mr. Murdoch.

**Mr. Paul Miller:** Once again, it's quite a grey area. Here we have item 1: "Regulations should not contain provisions initiating new policy...." If I want to make a change to, or I'm not happy with, one of the motions or one of the regulations, I can't recommend new provisions, according to this.

**The Chair (Mr. Michael Prue):** That is the prerogative of the cabinet and the minister.

**Mr. Paul Miller:** Okay. So as I said, what am I doing here? Fine. That's the end of that discussion.

**The Chair (Mr. Michael Prue):** Mr. Murdoch.

**Mr. Bill Murdoch:** Since I started this whole problem, and so Mr. Rinaldi doesn't think that we're trying to cause trouble here, it's just that I think we're trying to understand it. If he understands why we're here—and that's fine—I don't. I don't think Mr. Miller does, or some of the rest of us. We're just trying to—why are we here, then? If it's just to sort of rubber-stamp the thing, there's no sense in us wasting our time.

That's all we're trying to do. This has helped a few questions get answered, and maybe we'll still wonder, but that's all it's about. We're not trying to be partisan here or anything like that. You guys may have questions. If you don't sit in cabinet, you don't get to set those regulations either. Do you not wonder sometimes where they come from? I do, and I always have. I've never sat in cabinet, but I've thought, "Gee, we pass a bill and then all these regulations come out, but they never went through the House and everything." So I often wonder

what's going on. That's why: We're just trying to figure out something here.

**The Chair (Mr. Michael Prue):** Our whole system in the House, our whole system of democracy, is to scrutinize the executive. That's the job—

**Mr. Bill Murdoch:** The backbenchers should too.

**Mr. Michael Prue:** That's the job of all of us backbenchers.

**Mr. Paul Miller:** But, Mr. Chair, you don't have any—

**The Chair (Mr. Michael Prue):** No, it doesn't matter which side you're on: Our job is to scrutinize. And the ministries take this seriously. Last year when we did this, several of the ministry lawyers came forward, if you remember that; they came forward to talk about the regulations, why they felt they were necessary and why they did what they did—because we asked them to attend, and they came. If you want to, when we get into the body of this, ask them to come and justify what they've done, they'll come.

**Mr. Paul Miller:** We'll be asking.

**The Chair (Mr. Michael Prue):** Okay. Mr. Ruprecht.

**Mr. Tony Ruprecht:** Just a quick comment there: The whole idea is supposed to be that there are some checks and balances in the system. So while you may not be able to make a major change, and sometimes not even a minor change, at least you've got some checks and balances to say that you can if you wish.

**Mr. Paul Miller:** So I can hear myself talk.

**Mr. Tony Ruprecht:** So what my comment was earlier, when I said it's a second sober thought—or a sober second thought—is quite apropos. At least the system is open for you to be critical.

*Interjections.*

**The Chair (Mr. Michael Prue):** Okay. We've asked enough questions on why we're here. Let's get into what we're supposed to be doing.

**Mr. Bill Murdoch:** I want to get on the record that we are sober.

**The Chair (Mr. Michael Prue):** I hope so; it's only 9:30.

*Interjections.*

**The Chair (Mr. Michael Prue):** Order, please. Order.

**Mr. Tony Ruprecht:** Mr. Chair, do you remember Eddie Sargent?

**The Chair (Mr. Michael Prue):** Of course, but please. We have some valuable time here that we don't want to waste.

**Ms. Marta Kennedy:** So we'll get into the report, and unless there are any further questions about the statistics—are there any questions about the statistics?

**The Chair (Mr. Michael Prue):** No; just go right into it.

**Ms. Marta Kennedy:** Okay. I'll go right into the report, and it starts on page 5, the meat of the report.

This section of the report deals with the regulations reported. These are the regulations where the lawyers at legislative research thought that there might be an issue



with the way the regulations had been made, or with the authority for these regulations.

There are only five of them in this report, and the first one here is O.Reg. 33/08 under the Waste Diversion Act, 2002. It's a regulation that is administered by the Ministry of the Environment. This is one of the regulations where the ministry believes that the regulation does not violate the standing orders. We're including this as a potential violation of guideline 2, which is the statutory authority guideline.

For this regulation, we're looking at the sections in the regulation that deal with the board of Stewardship Ontario, which is what's called an industry funding organization. It's involved in the implementation of blue box programs, things like that. The act here, the Waste Diversion Act, says that the minister can make regulations governing the composition and appointment of members of the board of Stewardship Ontario. The regulation says that some members of the board are to be appointed and some members are to be elected. The act doesn't actually say anything about election of members of the board; it only talks about composition and appointment. So the question here is, does the act allow regulations that permit board members to be elected? That's the question. At the bottom of page 6 there is a possible recommendation.

0930

**Mr. Paul Miller:** So what we're doing here is eliminating the democratic process by eliminating the word "elected." Now they're going to be appointed by the cabinet or appointed by whoever to this board. You want to take out the word "elected." That closes the door on any potential set-up to elect people from different walks of life for the board. They'll be appointed. Would that be a fair question?

**Ms. Marta Kennedy:** I think it's not quite that. What the regulations review is for is to look at the statute that was passed by the Legislature and see what you, the Legislature, said cabinet was allowed to do—what kind of laws cabinet was allowed to make, what kind of regulations cabinet was allowed to make. In statutes, it says the Lieutenant Governor in Council may make regulations respecting—and in this case, it said "respecting the composition and appointment of members of the board." Okay?

**Mr. Paul Miller:** So if the government of the day, whoever they might be, working along with the cabinet and the Lieutenant Governor, made a decision on the word "elected" to be removed, or whatever they have, and it's the recommendation they make through legislative counsel, then, even if the opposition parties oppose it and want the board members to be elected and leave the word "elected" in there, they could be overruled and it goes ahead anyway. Is that correct?

**Ms. Marta Kennedy:** I think we're talking about two different processes.

**Mr. Paul Miller:** We are? I'm not sure about that, but anyway.

**Ms. Marta Kennedy:** I think perhaps you're talking about a separate process. What we're looking at here is

what the statute actually says after it has been made and passed.

**Mr. Paul Miller:** But we're making changes to it.

**Ms. Marta Kennedy:** No, we're not making changes to it. What we're saying is, is what cabinet did what the statute said cabinet could do? That's what we're doing. The statute says you can do this; cabinet did this.

**Mr. Paul Miller:** Okay. Why is it being questioned then, if it was already there? Who is questioning it?

**Ms. Marta Kennedy:** You are.

**The Chair (Mr. Michael Prue):** The lawyers are and, through the lawyers, us.

**Mr. Paul Miller:** And people who might want to be elected to the board instead of appointed, would they be—

**Ms. Marta Kennedy:** No. What we're saying is, the statute says this and you're allowed to do this. This is what the Legislature said cabinet can do. Cabinet did this. Do the two match? Did cabinet do only what the Legislature said it could do? That's the question.

**Mr. Paul Miller:** So have they exceeded their authority or not?

**Ms. Marta Kennedy:** Yes. "Did they exceed their authority or not?" That's the question.

**Mr. Bill Murdoch:** And our lawyers are saying they did.

**Ms. Marta Kennedy:** Yes.

**Mr. Bill Murdoch:** Because in the original statute that was passed, they didn't have the right to put on elected people.

**Ms. Marta Kennedy:** Yes.

**Mr. Bill Murdoch:** And then, when they started talking about it with the regulations, somehow they put in there that you could elect people. So our lawyers are saying that they shouldn't have done that.

**Ms. Marta Kennedy:** Yes.

**Mr. Bill Murdoch:** So we're dealing between two lawyers and we're being like a judge in the deal. Isn't that right? Lawyers drafted the regs, right? And then—

**The Chair (Mr. Michael Prue):** The Legislature talked about appointment; the regulations talked about elections. Are they allowed to have elections? It's the opposite of what you're saying.

**Mr. Paul Miller:** It doesn't look like they are. It's unfortunate.

**The Chair (Mr. Michael Prue):** Yes, exactly.

**Mr. Paul Miller:** It seems like we've got more appointments.

**Mr. Gerry Martiniuk:** Who would do the electing? Is it the industry that does the electing? That's of interest. We may be better off with appointed, because they could be independent.

*Interjection.*

**Mr. Gerry Martiniuk:** Yes, okay. But who did the electing? I don't know.

**Mr. Bill Murdoch:** It was never in the bill to do that. We passed the bill in the House whenever—

**Mr. Paul Miller:** Who does the appointing?



**The Chair (Mr. Michael Prue):** The appointments are done through the appointment process, like every other appointment.

**Mr. Gerry Martiniuk:** Which has scrutiny?

**The Chair (Mr. Michael Prue):** Which has scrutiny; that's all.

**Mr. Paul Miller:** That's scrutiny?

**Mr. Gerry Martiniuk:** But my question was, who does the electing?

**The Chair (Mr. Michael Prue):** I don't know whether any election can possibly take place, so I don't know why they've done this. That's why the lawyers brought this forward: How can cabinet say there's going to be an election?

You're right: If it were, then they would have to say to all these trade associations and everyone else, "Elect somebody."

**Mr. Gerry Martiniuk:** I would like to know who does the electing so that I can evaluate in my own mind why the cabinet would have introduced election, why they considered it a good idea—because our recommendation may be that, as it presently is framed, elections are not possible, but we, as a committee, do believe that there should be consideration for introducing election by some other method. So I have to know who does the electing so I can recognize it. Is that not fair?

**The Chair (Mr. Michael Prue):** Let's hear from counsel.

**Ms. Marta Kennedy:** Under the regulation, under subsection 4(7), it says, "A person is entitled to vote in an election ... if he or she has been chosen by a steward association for the purpose and the stewards that are members of the steward association have collectively paid at least \$10 million to Stewardship Ontario in the most recently completed fiscal year in respect of the obligation." So the steward association chooses the people who get to vote, based on my very quick reading of this regulation.

**Mr. Paul Miller:** Who's the steward association? Are they companies? Who are they—unions? Companies?

**Ms. Marta Kennedy:** No. From what I understand—and again, I'm not an expert on this particular regulation; I just know how the authority works.

**Mr. Paul Miller:** You mentioned \$10 million. Does that mean that that's a company paying into this stewardship program?

**Ms. Marta Kennedy:** Yes, likely, because from what I understand of this regulation, the steward association is made up of the producers of materials that go into blue boxes. So people who produce bottles, cans, newspapers and so forth, from what I understand, they formed this group—

**Mr. Gerry Martiniuk:** The industry does the electing, short answer; the "industry."

**Ms. Marta Kennedy:** It would be best to get someone in from the Ministry of the Environment to tell you exactly how this works, but from what I understand, yes.

**Mr. Gerry Martiniuk:** So I don't know whether that's a—

**The Chair (Mr. Michael Prue):** Is there someone who wants to bring in someone to explain this?

**Mr. Paul Miller:** No, I've pretty well got it now. I can see where this is going.

**The Chair (Mr. Michael Prue):** All right. Is there further discussion, then, on this? Any further questions, further discussion? Hearing none, then let's go on to the next one.

*Interjection.*

**The Chair (Mr. Michael Prue):** You've got one? Mr. Murdoch.

**Mr. Bill Murdoch:** It was a good discussion, and we sort of found out some things here. So this was, in the words of our lawyer, who represents this committee, I guess, that the lawyers who made this recommendation were wrong. So we accept this in this report, and let's just say that's the only one we've got. Now what happens? Where does it go?

**The Chair (Mr. Michael Prue):** It goes back to the House, and the recommendation of the committee is that we approve and we pass on the committee recommendation that the Minister of the Environment amend that section to remove all reference to the election of a board of directors.

**Mr. Bill Murdoch:** Okay. And then you'll present this report to the House as Chair. I've never seen anybody really question many reports, so if the Speaker says, "Do you accept the report?" and everybody sort of nods yes, then they have to change it? There's no more discussion?

*Interjection.*

**Mr. Bill Murdoch:** No? Okay. This is what I'm getting at. So if this report goes back—and it'll probably be accepted, because nobody will even look at it—what happens then?

*Interjection.*

**Mr. Bill Murdoch:** No, they're saying that they don't have to accept it, so—

**The Chair (Mr. Michael Prue):** It's part of the public record. I would assume that the Conservative environmental critic, the NDP environmental critic and perhaps somebody from the Ministry of the Environment will take a very hard look at this as to whether or not this is the subject of some debate.

**Mr. Bill Murdoch:** Okay. So the report being accepted by the House doesn't mean much at all.

**The Chair (Mr. Michael Prue):** No, it means it's before the House; it's now a matter of public record.

**Mr. Bill Murdoch:** So it just sits there like everything else does.

**The Chair (Mr. Michael Prue):** Well, it's a matter of public record. People can do with it whatever they want.

**Mr. Bill Murdoch:** People? But they don't get elected.

**The Chair (Mr. Michael Prue):** Members; 107 members can do with it whatever they want.

**Mr. Bill Murdoch:** So the only way you could do that is, as you say, either in House leaders, or anyone could in a question, I guess, ask the Minister of the Environment,



"Our committee recommended that you change it. Did you ever do that?" But that's the only way—

**The Chair (Mr. Michael Prue):** Yes, members' statements; people can read this, too. The whole environmental community out there can read this.

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**Mr. Bill Murdoch:** This is just a simple thing, I understand, but I'm just trying to get the process. Say they do accept it; do we ever find that out?

**Ms. Marta Kennedy:** Currently, part of the recommendation says that it asks the Ministry of the Environment to inform the committee once the amendments have been made. You can change this. This is just a potential recommendation. If, as you said, what you'd prefer to have is the ministry change the statute so that the statute allows whatever you like, then that's also a potential recommendation. You can put in this recommendation whatever you like. If what you want is legislative research, on your behalf, to follow up and send another letter to the ministry saying, "Can you let us know what's happened?" we can do that as well.

**The Chair (Mr. Michael Prue):** Mr. Martiniuk.

**Mr. Gerry Martiniuk:** Is this committee permitted to call the minister or the deputy or an ADM before this committee to discuss a possible recommendation?

**The Chair (Mr. Michael Prue):** We can't compel their attendance, but we can call anybody we want.

**Mr. Gerry Martiniuk:** But we can ask them?

**The Chair (Mr. Michael Prue):** Absolutely.

**Mr. Gerry Martiniuk:** So we could ask them and say, "What would your intentions be?" They could refuse to answer, but we could call them?

**The Chair (Mr. Michael Prue):** Absolutely.

**Mr. Bill Murdoch:** We really don't have any meaning in doing this. We should. I hate just being a rubber stamp and letting it go.

**The Chair (Mr. Michael Prue):** Then exercise your authority. Make the motion.

**Mr. Bill Murdoch:** That we ask—we should have both of the lawyers: the one that, in the first place, made the mistake; and the one that, in the second place, said, "You're wrong."

**Mr. Gerry Martiniuk:** It's not a mistake; it's an opinion.

**The Chair (Mr. Michael Prue):** Nobody has said it's wrong. One lawyer has said, "There is a mistake here." We haven't heard from the other side.

**Mr. Bill Murdoch:** The ones that made the mistake in the first place—supposedly.

**Mr. Paul Miller:** I'll just say one thing: If this process is anything like motions or like amendments in committee from the opposition, it's a dead duck. Okay? It's going nowhere. That's the end of that discussion.

**Mr. Bill Murdoch:** I would think these guys would want to have it done right, too. It's not a partisan lawyer that has told us this is wrong. It's not our lawyer.

**The Chair (Mr. Michael Prue):** Does anyone want to make a motion to compel a witness or to bring a witness here? Does anybody want to do that?

**Mr. Bill Murdoch:** I think it's a simple thing, so this wouldn't be one. I don't see us getting too involved in this one. I'm just trying to learn the process here.

**The Chair (Mr. Michael Prue):** Then if there's no will to do anything with it, let's move on.

**Mr. Bill Murdoch:** I'm just trying to learn the process.

**Ms. Marta Kennedy:** All right. On to the next regulation; it starts at the top of page 7. It's a regulation under the Environmental Assessment Act. It's also a regulation that is administered by the Ministry of the Environment. It's a new regulation. It's the transit projects and Greater Toronto Transportation Authority undertaking.

This is a regulation where the ministry has said it is considering making changes to address the concerns that were raised. This was back in, I believe, May when they said this. Whether at this point—it hasn't happened yet, in any event; they haven't made the changes yet. This is a potential violation of the clarity of language guidelines.

This is a new regulation, and it establishes a six-month environmental assessment process for certain types of transit projects. What it does is it exempts these transit projects from the requirements in part II of the Environmental Assessment Act from having to conduct individual environmental assessments for each transit project. The problem, from legislative research's perspective, is that these transit projects haven't been exempt from part II.1 of the Environmental Assessment Act. Part II.1 deals with class environmental assessments and requires projects that are covered by class environmental assessments to comply with a class environmental assessment before proceeding.

For example, under the Environmental Assessment Act, there is a class environmental assessment document for GO Transit. Instead of having to go through an individual environmental assessment for each individual project that they want to do, as long as they comply with this document, they're good to go. Okay?

These transit projects got exempt from the individual process, and they had a new process created for them, but they weren't specifically exempt from the class process. The act says that if you are a project that is covered by the class process, you have to comply with the class process. So, just based on the drafting of the regulation, it looks like they would have to comply with the class process and with this new transit process, and that doesn't seem to make sense. It seems that what they wanted to do was to have them just comply with this new transit process and not the class process. If this is how it's drafted, then that's a violation of the committee guideline dealing with clarity of language.

So we wrote to them and we said to them, "This looks like a problem. What do you think?" And they said, "Well, we're going to"—the legal branch referred it on to the policy branch, and they're considering the matter. There's a possible recommendation at the bottom of page 7.

**The Chair (Mr. Michael Prue):** Mr. Miller.



**Mr. Paul Miller:** It sounds like—we obviously had a problem with this originally. When a full EA is being removed, from what I can see, by this new regulation to expedite the process for transit projects throughout Ontario, to drop it from—it normally took a year or longer to do an EA, and they want to do this all in six months.

But I think, in my humble opinion, that they've cut some corners on a proper EA. What they've done with this six-month one—it obviously, by your opinion, conflicts with the original situation under part II.1, so what we're saying now—this is the type of thing that I would want someone here to talk to me about. Since you've brought it forth to the committee to consider, I'm requesting the ministry to be here to explain to me why they're going from a full environmental assessment to a six-month special, to expedite. They are cutting corners—and we'll bring information forward that they are cutting corners—on the EA process.

Our fear is that the public is not getting their bang for their buck, as far as an environmental assessment goes, on potential hazards to their health, whether it be diesel trains, coal, or whatever it might be. This is simply to attract a quicker response, quicker business, get things moving quicker, and I think it's going to be at the cost of somebody's health down the road.

I want someone to come and explain to me what they are cutting out of the process by lowering it to six months.

You've presented it to the committee now.

**The Chair (Mr. Michael Prue):** Is your motion to bring forward the experts from the ministry?

**Mr. Paul Miller:** Yes.

**The Chair (Mr. Michael Prue):** I don't think you need to delve into what you're going to ask them. Quite frankly, they have authority to make a number of decisions.

What we will ask them is how they came up with this particular regulation, and how it may be in conflict.

**Mr. Paul Miller:** Not just the regulation being in conflict. When we discuss it, we want to know why it has dropped from a year to six months. I want to know that too.

**The Chair (Mr. Michael Prue):** That you can ask, but I don't know whether that was in the legislation or not. I'm not sure, but we'll find out. We can ask the question.

We have a motion on the floor to bring a representative from the Ministry of the Environment to explain this to committee. Is there any discussion on the motion? Seeing none, all those in favour of the motion? Opposed? That's carried.

*Interjection.*

**The Chair (Mr. Michael Prue):** Oh, opposed—okay, but it is carried.

All right. We'll hold this down until the next date, and we'll have them here next Wednesday, if possible, if we can get them that quickly. If we can't, well, we'll do it when we can.

**Mr. Bill Murdoch:** Again, I want to stress that this is not a partisan thing, I don't think. I'm just trying to understand the process, and I would hope that our friends on the other side would understand that. I know they passed—

**The Chair (Mr. Michael Prue):** I think they did—

**Mr. Bill Murdoch:** Well, some voted against—

**The Chair (Mr. Michael Prue):** The majority of members on the government side voted for it.

**Mr. Bill Murdoch:** You did, and I appreciate that, but some didn't, and I just want to say—some of them may be new members—that we try to be as non-partisan in this committee as we can. I don't know what your problem would be with us bringing somebody in. I appreciate the fact that you guys did vote for it, but some of your new members you may have to straighten out.

**The Chair (Mr. Michael Prue):** I think all of the members are entitled to vote the way they want.

**Mr. Bill Murdoch:** I agree with you, but just make sure you're doing it non-partisan-wise. That's fair.

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**The Chair (Mr. Michael Prue):** All right. If we could deal with that, this entire item is being held down, so let's go on to the third recommendation.

**Ms. Marta Kennedy:** The next regulation is at the top of page 8 of the report. It's a regulation under the Fish and Wildlife Conservation Act, 1997, and it's administered by the Ministry of Natural Resources. It's being reported under guideline 2, which is the statutory authority guideline. This is a regulation about hunting. In this regulation, we're looking at provisions in the regulation that set kill limits for turkeys.

**The Chair (Mr. Michael Prue):** Wild turkeys.

**Ms. Marta Kennedy:** Wild turkeys—I'm sorry. The provisions that we're looking at in this regulation are the limits on the number of wild turkeys that a person with a licence can kill. These are called "kill limits." In the act, it says that cabinet may not make regulations that set kill limits; it says that explicitly in the act.

**Mr. Bill Murdoch:** Cabinet may not?

**Ms. Marta Kennedy:** Cabinet may not. The act gives this power to the minister. But the act also gives cabinet the authority to make any regulation the minister can make. The question is, if the act says that cabinet can't set kill limits, the minister can set kill limits, but cabinet can make any regulation that the minister can make, can cabinet make regulations that set kill limits? Or is it that cabinet can make any regulation the minister can make, with the exception of those that are specifically excluded?

**The Chair (Mr. Michael Prue):** Yes, that's what it should read.

**Ms. Marta Kennedy:** The ministry says yes, cabinet can make any regulation the minister can make, including regulations setting kill limits. It seems to legislative research that the better reading is that cabinet can make any regulation the ministry can make, with the exception of those specifically excluded. Then there's a potential recommendation on the top of page 10.



**The Chair (Mr. Michael Prue):** Any discussion on this regulation? Mr. Rinaldi.

**Mr. Lou Rinaldi:** Have you heard back from the ministry folks?

**Ms. Marta Kennedy:** We have heard back after we first sent out the letter, and the response, as I said, was that their position is that cabinet can make any regulation the minister can make. We haven't responded to them since then; we brought it to the committee instead.

**The Chair (Mr. Michael Prue):** Mr. Leal.

**Mr. Jeff Leal:** All of us in rural Ontario know that there's been a tremendous proliferation of wild turkeys. They were extinct in 1970, then the government of the day, Mr. Davis, in his wisdom, reintroduced wild turkeys.

But the minister has the power to change seasons for a hunt, right? The minister can do it. We've added additional hunt for wild turkeys in Ontario, and in eastern Ontario we added an additional season for the deer hunt because of the destruction they were doing to farmers' corn fields and soybeans.

**Mr. Bill Murdoch:** Does the minister or the cabinet make those decisions? I'm not sure.

**Ms. Marta Kennedy:** I believe seasons can be set by the minister, but because the cabinet can make any regulations the minister can make, at the moment, I believe—and I'd have to check for you—cabinet is actually making those regulations.

**Mr. Jeff Leal:** On seasons.

**Ms. Marta Kennedy:** On seasons, yes. I'm not sure, but I can check for you, if you like.

**Mr. Bill Murdoch:** That would be an onerous—

**The Chair (Mr. Michael Prue):** Let's not get into the seasons.

**Mr. Jeff Leal:** No, I know. I'm just trying to get a little bit of background.

**Mr. Bill Murdoch:** I think the reason they would give it to the minister to make is that the Minister of Natural Resources should have his or her pulse on what's happening out there because of the people working for them. It would be much faster for a minister to say, "We've got too many turkeys and we're going to have to add different times."

Say the minister can do that. But then—can cabinet overrule that? That's what I wonder.

**Ms. Marta Kennedy:** The statute at the moment does actually allow cabinet to overrule it, yes.

**Mr. Bill Murdoch:** Okay.

**Ms. Marta Kennedy:** That's actually set out in the statute. But the question with this regulation is, because the statute explicitly says cabinet cannot make regulation setting kill limits, can cabinet make those regulations—

**Mr. Bill Murdoch:** We just want it clarified.

**Ms. Marta Kennedy:** —and overrule the minister, given that it says cabinet can make any regulations the minister can make?

**Mr. Bill Murdoch:** I'd like to have them come and explain that, then. I think that's why we're here. I don't have any problem with it, and I think it should be clarified. I agree with you. But they never answered; this

is my problem. When you tried to sort the problem out before you brought it here, it didn't look like it happened. I'd like a clear direction. We'll never get that unless we have the ones who made it come here and tell us. So I'll make that motion that they come and—

*Interjection.*

**Mr. Bill Murdoch:** I'd just like to ask, just to clarify why. It helps me understand the whole situation.

**The Chair (Mr. Michael Prue):** Okay, then. We have a motion to bring an official from the Ministry of Natural Resources to explain their position on this particular regulation. Okay?

**Mr. Lou Rinaldi:** Discussion on the motion: My concern is, if we notified them of this already—I'm sorry. Did we get a reply saying that the way the statute is now it will stay, or are they going to look at it again?

**Ms. Marta Kennedy:** No, their reply was that they think it's fine.

**Mr. Lou Rinaldi:** It's fine. Okay.

**Ms. Marta Kennedy:** The regulations are fine, yes.

**Mr. Bill Murdoch:** So they can explain. That's all I want.

**The Chair (Mr. Michael Prue):** If I can, part of the reason that we point these out is, if somebody goes out and kills a whole bunch of turkeys and then goes to court and has a defence that the minister never set the kill limit, it was set by somebody who didn't have authority to set it, then they could get off. That's why we're doing these kinds of things.

Any other discussion on the motion to bring staff? All those in favour? Opposed? That's carried.

Mr. Miller, if you could do the honours for a minute or two.

**The Vice-Chair (Mr. Paul Miller):** We're moving on to the next recommendation.

**Ms. Marta Kennedy:** We're on page 10 now. We're looking at a regulation made under the Early Childhood Educators Act, and it's a regulation that is administered by the Ministry of Children and Youth Services. It's being reported as a potential violation of the statutory authority guideline.

Just to give you a bit of an update because the memo that you should have received this morning is relevant: When we first wrote to the ministry, the ministry said that it was considering amending the Early Childhood Educators Act to deal with a problem in the regulations. Right now in Bill 242, which is the Full Day Early Learning Statute Law Amendment Act, the government has introduced, as part of that act, amendments to the Early Childhood Educators Act that would deal with the problems in the regulations. What they've decided to do is to amend the act to fix the problem with the regulations.

In the memo dated March 23, 2010, there is a replacement for that section of this report. It starts on page 2 of that memo. We're recommending that the part in the draft report that currently deals with the Early Childhood Educators Act, with that regulation, be replaced by the part in the memo that starts on page 2. The difference is,



at the bottom it says—perhaps I should tell you about the regulation.

The regulation deals with membership in the College of Early Childhood Educators, which are the daycare workers.

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*Interjection.*

**Ms. Marta Kennedy:** It's the 23rd memo.

The act says that if a person who has been suspended from membership in the college for administrative reasons—because they didn't pay their fees or they didn't give all the information they were supposed to provide—the college must reinstate their certificate once they've paid their fees or once they provide the information. This is similar to a lot of colleges. You can be administratively suspended. You don't pay your fees so they suspend your membership in the college. To get back into good standing, you pay your fees; it's done—over. Okay? That's what the act says: Pay your fees, provide the information, and you're reinstated.

The regulation says that there are additional requirements to be reinstated: You have to pay your fees or provide the information and comply with two other things. It gives the registrar of the college the discretion to refuse to reinstate the certificate, even if the person meets the requirements for reinstatement in the act. So it seems that the regulation requires more than what the act requires. The act actually says that the registrar shall reinstate the certificate. The regulation says, "No, not quite."

We brought this forward to the ministry, and the ministry said, "Yes, this looks like it might be a problem. We're going to look at seeing about amending the act." As part of Bill 242, which is the full-day kindergarten act, the government has introduced amendments to the Early Childhood Educators Act, which deals with these issues and will permit the college to require additional requirements to be complied with in order to have your certificate reinstated.

**The Vice-Chair (Mr. Paul Miller):** Okay, one at a time here. Mr. Murdoch.

**Mr. Bill Murdoch:** So you've basically told them to amend the act, and that'll come to the House for us to discuss.

**Ms. Marta Kennedy:** What we told them was, "We think there's a problem. What's your response?" They said, "Yes, we agree there's a problem." When there's a problem with the regulations, there are generally two options: You can change the regulation so the regulation matches the statute, or you can change the statute so the statute matches the regulation. They chose to change the statute.

**Mr. Bill Murdoch:** That's probably proper, if they want to keep that same regulation. So that will have to come to the House. We haven't had that yet.

**Mr. Lou Rinaldi:** We're debating it right now.

**Ms. Marta Kennedy:** Yes, Bill 242, I think, is currently before the Standing Committee on Social Policy, and they're having hearings on it, I think, this week.

**The Vice-Chair (Mr. Paul Miller):** Okay. Further discussion? Mr. Rinaldi?

**Mr. Lou Rinaldi:** Just for clarification on the process again. I want to jump on the bandwagon. This is in Bill 242. It's in a legislative committee right now, and it went through second reading and amendments. So why are we dealing with this here if they're addressing it on that piece of legislation?

**Ms. Marta Kennedy:** There's no recommendation attached to this. It's to say that there was a problem with this regulation, the ministry was informed on your behalf, the ministry is dealing with it, and this is how they're dealing with it.

**Mr. Lou Rinaldi:** Perfect.

**The Vice-Chair (Mr. Paul Miller):** So I think we've all agreed on that. We can move on to the next one, then. Is everybody happy? Okay.

**Mr. Lou Rinaldi:** I like Paul as Chair.

**The Vice-Chair (Mr. Paul Miller):** Thanks, Lou.

**Mr. Gerry Martiniuk:** It's much shorter now that he can't talk.

**The Vice-Chair (Mr. Paul Miller):** Now, be nice, Gerry.

**Ms. Marta Kennedy:** The next regulation begins on page 11 of the draft report. It's a regulation under the Assessment Act. It's administered by the Ministry of Finance. We have been told—I'll just tell you now—that the ministry intends to amend the regulation to deal with the issue that we raised, but I'll just go through the regulation with you.

Regulation 90/08 was an amendment to the main regulation under the Assessment Act. The general regulation under the Assessment Act creates classes of real property for assessment purposes. It creates the classes, it describes the classes, and then it makes rules about these classes for assessment purposes.

The regulation includes rules about what's called the residual property class. But the act says that if you make rules about a property class, the class has to be prescribed; it first has to be created in the regulation. This hasn't actually been done for the residual property class, so it looks like there's no authority to make rules about this class because the class hasn't actually been created, so to speak.

If you actually look at the regulation, you can see there's a list of classes that have been prescribed or created. It says, "The following classes have been prescribed," and then it lists them. But the residual property class is not listed there, even though there are a bunch of rules about the residual property class.

We wrote to the ministry about this and we said, "There seems to be a problem here," and the ministry said, "Yes. We are going to amend the regulation to fix this," so it's actually prescribed and listed in the section of the regulation that makes the class. This hasn't happened yet, but that's what they have told us.

**The Vice-Chair (Mr. Paul Miller):** Any discussion? Mr. Rinaldi.



**Mr. Lou Rinaldi:** The process again, and I think you mentioned this at the beginning: Is this committee responsible to follow up that that happens then? Or what happens?

**Ms. Marta Kennedy:** It's up to you. If you would like legislative research to follow up with the ministry, it's up to you.

**The Vice-Chair (Mr. Paul Miller):** Mr. Murdoch.

**Mr. Bill Murdoch:** I just want to say that if they didn't do what you thought they were going to do, then wouldn't you bring it back to us automatically? Because it would still be a mistake, then.

**Ms. Marta Kennedy:** We could, and if you'd like us to follow it, we will follow it, but again, it's up to you. It's up to you to direct us to what you'd like us to do.

**The Vice-Chair (Mr. Paul Miller):** Can I have a motion on that?

**Mr. Bill Murdoch:** Just to get it straight again, though, I would think—the problems you just brought us today weren't our decision. It was yours, we'll say; we'll blame you for that. That's okay; that's a good blame. I would think, though, that if they didn't do that, wouldn't you just automatically do that? I wouldn't think we'd have to order you to do that.

**Ms. Marta Kennedy:** Again, it would depend on what you would like us to do. If you'd like us to follow it, we would. If you're satisfied with the report as it is—

**The Vice-Chair (Mr. Paul Miller):** If something is presented before the committee, we recommend it and it goes ahead, I would assume that once it got the House, whoever it got to at the next level would deal with the appropriate changes. We only dealt with what was in front of us. If you're saying that you want it brought back to this committee, I don't know if that's necessary. If legislative counsel deals with it at the next level that has been added as an amendment to the original report, then I'm assuming we could be notified that that had been taken care of.

**Mr. Bill Murdoch:** That wasn't what I was really getting at, though. If they do deal with it, that's fine. We don't need to know. But what if they don't deal with it? That's what I'm saying. I think it would automatically come back to us, then, for our recommendation. That's all I'm asking.

**Mr. Gerry Martiniuk:** You would have to deal with a motion.

**Mr. Bill Murdoch:** Okay. If we have to have a motion, I don't know why, but—

**The Vice-Chair (Mr. Paul Miller):** Mr. Leal?

**Mr. Jeff Leal:** This looks like an issue that was probably brought to the attention of MPAC, the Municipal Property Assessment Corp. Perhaps members in areas that had this type of property, a resort condominium property, brought to the attention of MPAC—MPAC of course doesn't have the power to change legislation or regulation, and Carl Isenburg has probably flagged the Ministry of Finance. Over the years, if you look at these things, sometimes in a budget they make these changes

as part of the budget bill, so who knows what's in it, but it could be in on Thursday.

**The Vice-Chair (Mr. Paul Miller):** I think what we could do is ask legislative counsel to keep us apprised of the development as it proceeds. If we don't get an answer, we can ask again what the status of that particular item is.

Mr. Martiniuk.

**Mr. Gerry Martiniuk:** If the committee does want to, we should have a motion. I would move that legislative research be authorized to monitor the recommendations and report to the committee from time to time as to the disposition of our recommendations.

**The Vice-Chair (Mr. Paul Miller):** Any discussion on that motion? All in favour? Opposed? Carried.

1010

Moving on.

**Ms. Marta Kennedy:** We're through the main body of the report, I'm sure you're pleased to know.

On page 12 of the report, there's a chart that lists a number of minor issues that we came across when we were reviewing the regulations. These are really just minor drafting issues and concerns that we had: cross-references that were wrong, incorrect wording, word duplication, incorrect citation—that sort of thing. That same memo you were looking at earlier dated March 23 has a replacement table, because when we brought these issues to the attention of the various ministries, they told us, for the most part, "Yes, this is a problem. We'll have it corrected." The table in the March 23 memo provides an update of what the ministries have done. Since the draft report was prepared, all of these issues have been resolved; the ministries have made these changes, with one exception.

**Mr. Bill Murdoch:** Which one?

**Ms. Marta Kennedy:** Which one has not yet occurred? It's a regulation under the Mortgage Brokerages, Lenders and Administrators Act, 2006. It's an incorrect cross-reference, and they haven't fixed that yet.

**Mr. Lou Rinaldi:** But they committed to do that?

**Ms. Marta Kennedy:** They committed to do it, yes.

**The Vice-Chair (Mr. Paul Miller):** Question? Gerry.

**Mr. Gerry Martiniuk:** Just one more point: I had raised the 2009 statistics. Is there any objection to including them on the graph? I don't think we have to set them out there, but it should be included on the graph just showing the—

**The Vice-Chair (Mr. Paul Miller):** We can get that to you.

**Mr. Gerry Martiniuk:** Thank you. Page 4 is the graph, okay?

**The Vice-Chair (Mr. Paul Miller):** Any further business of the committee?

This committee stands adjourned until we get the proper authorities in front of us to deal with the two requests we made, and this committee will be adjourned until then.

*The committee adjourned at 1012.*







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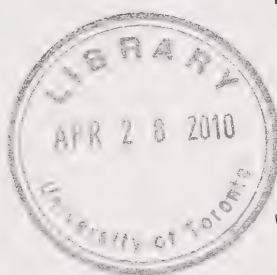
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Second Session, 39<sup>th</sup> Parliament

**Assemblée législative  
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Deuxième session, 39<sup>e</sup> législature



**Official Report  
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**Journal  
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**Wednesday 31 March 2010**

**Mercredi 31 mars 2010**

**Standing Committee on  
Regulations and Private Bills**

**Comité permanent des  
règlements et des projets  
de loi d'intérêt privé**

**Draft report on regulations**

**Rapport préliminaire  
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## LEGISLATIVE ASSEMBLY OF ONTARIO

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE  
ON REGULATIONS  
AND PRIVATE BILLSCOMITÉ PERMANENT DES  
RÈGLEMENTS ET DES PROJETS DE LOI  
D'INTÉRÊT PRIVÉ

Wednesday 31 March 2010

Mercredi 31 mars 2010

*The committee met at 0901 in room 151.*

## DRAFT REPORT ON REGULATIONS

**The Chair (Mr. Michael Prue):** It's 9 o'clock. The meeting is called to order. On the last occasion, the meeting was adjourned in order to allow ministry officials from both the Ministry of the Environment and from the Ministry of Natural Resources to come forward to answer questions of the committee in the order in which I have them listed here and, I assume, the order in which we are going to hear from them.

I would invite people from the Ministry of the Environment to come forward and perhaps to make an opening statement on the ministry's position on the regulations that are under discussion and the ministry's feelings. Then I will invite questions from the members of the committee.

Just for the edification of the members of the committee, this is not at all on the policy behind this, but in terms of how the regulations meet the requirements of the act that was passed by the Legislature, whether or not it meets it, so just hone your thoughts down that road.

The floor is yours. If you could identify yourself, please, for the purposes of Hansard.

**Ms. Myra Hewitt:** Good morning, members of the committee. My name's Myra Hewitt; I'm counsel with the Ministry of the Environment. I've been working with the Ministry of the Environment for over 20 years and doing legislative drafting for the last 10 of those years. My area of practice is environmental assessment. That's the issue, I guess, before the committee in terms of the regulation that's before you.

This is Blair Rohaly; he's a project manager. Blair and I both worked on the transit regulation that is the subject matter of your questions.

I will just do a brief introduction to the regulation that's before you and the issue that has been raised. First of all, I would say that the EA is a very complex area of my practice, and it has also been the focus of significant policy development over the last several years, a focus of it because of the importance of many of the projects that are proceeding, particularly transit projects and the importance of those to the environment.

Essentially, an EA is given in respect of an individual project, which is referred to as an individual EA, or you

get approval by proceeding through a class EA, where approval has been given for a class of projects. Sometimes the EA process is undertaken as a function of an exemption under the environmental assessment. The transit regulation is an exempting regulation that introduces an environmental assessment project as a condition of that exemption.

Part II.1, which is the focus of this issue, was added in 1996. Prior to 1996, there were class EAs, but the authority for those class EAs was based solely on part II of the act. Part II of the act refers to individual EAs, and part II.1 refers to class EAs. Essentially, part II.1 springs from part II and relates back to that part. For example, applications for approval of class EAs are submitting under part II. So they're very intimately linked, and part II.1 relies very much on the authorities in part II. Since the introduction of that provision, a number of exempting regulations have been made that effectively create that assessment process for classes of projects through an exemption, and it really mirrors what is found in some of the class EA processes.

The approach of introducing environmental assessment through an exempting provision presents some complex drafting challenges, and this approach is what was taken with respect to streamlining the transit projects. The approach that was taken around the particular issue that's been raised—the intent of the regulation was to allow proponents the option of proceeding either by way of their class EA, which was to be left in place, or by way of the streamlined process under the transit regulation. Both the class EA process and the transit process are streamlining processes because the class EA is a pre-approval process. While the regulation was being developed, MOE heard from proponents of these projects that, notwithstanding the opportunity to take advantage of the streamline process through the exempting regulation, they wanted the flexibility to be able to proceed through their class EAs.

By only exempting projects from part II as opposed to II and II.1, the intention was not to leave intact the requirement to proceed by way of class approval but to leave that as an option, some flexibility available to those who wanted to get their projects on the ground. In other words, if a proponent chose to avail itself of the exemption, it was intended there would be no basis upon which to suggest compliance with the class approval would still be required.



In the face of the issue that was raised when Ms. Marta Kennedy wrote to us, we took this issue and asked our clients to have a look at it. We're still in that process. It's not to suggest that we think there's a problem there, necessarily, but when somebody else has looked at a regulation and looked at the policy aspect we've tried to achieve and the words that we've used to try to achieve that, obviously, we take that very seriously and are trying to work our way through it to see if, in fact, there does need to be anything to address it.

**The Chair (Mr. Michael Prue):** It's still a work in progress, then?

**Ms. Myra Hewitt:** I would say it's still a work in progress, yes.

**The Chair (Mr. Michael Prue):** Questions? Mr. Miller, then Mr. Murdoch.

**Mr. Paul Miller:** The word "streamlining" is a concern for me because it's my understanding that the EA process is long and trying for people with projects, and that was one of the reasons they wanted to streamline it.

My concern is that with some of the regulations that were originally in II, and now you've got II.1, it's not as strong. There's not as much meat to the bill. Personally, what I can see is that a lot of stuff was to expedite processes for developers or the EA process for pollution or whatever the situation was. It was to make it easier for companies to get their projects moving, whether it's an incinerator, whether it's a landfill or whatever it is. Would that be a fair statement that some of the things in II are now missing in II.1 that could have an impact?

**Ms. Myra Hewitt:** I'm assuming you mean in part II and II.1?

**Mr. Paul Miller:** Right.

**Ms. Myra Hewitt:** No. I think the statute clearly creates a parallel process between class EAs and individual EAs, but I think—

**Mr. Paul Miller:** Well, the reason I'm saying that is because when I was involved with the Taro landfill—I'm sure you remember Philip Environmental—one of their biggest complaints was that the process was too long. They didn't like it. There were too many conditions, too many regulations, and they wanted it sped up. It appears that since then, things have been streamlined and sped up, the processes for developing projects.

I'm basically asking: Is there anything that used to be in II that is in II.1 now that should still be in II.1 and isn't? I think that some things have been removed. It used to be a year-long, maybe a year-and-a-half-long process; now it's six months they're pushing for, depending on the project. Would that be a fair statement? I'm concerned about things being left out in II.1 that were in II.

**Ms. Myra Hewitt:** I'm going to try and tackle your question by translating it a bit, if you don't mind.

**Mr. Paul Miller:** No, go ahead.

0910

**Ms. Myra Hewitt:** Because II and II.1 are in the statute, nothing has changed in the statute. But what you're talking about are the exempting regulations that

have been made under a completely different provision of the act, which allows the cabinet to make regulations exempting people from EA.

I won't be able to speak to the policy, but I can say that the intention was to preserve all of the environmental protections with respect to whatever went on in an individual EA, in a class EA process or an exempting process. The perception that it was a slow process and that the exempting process was intended to help streamline that process by making the process more certain and clear for each project—all I can say is, that was the intention.

Nothing has been lost in the statute. The statute was not changed when these things were done. They were done by actually making an exempting regulation, taking them out of the statute.

**Mr. Paul Miller:** So why are we streamlining it? Why are we making it for specific projects like transportation? If everything was there in the original item II, why are you streamlining it to II.1? What's the purpose of that, then, if everything was there?

**Ms. Myra Hewitt:** I think the issue is that it streamlines it because the rules on what a proponent has to do are very clear. In an individual EA, the rules are not laid down. The proponent actually writes the rules as part of their terms of reference and as part of their EA. The intention was to try and create clearer rules.

But, again, I'm not here to defend a policy; I'm not here to speak about that policy.

**The Chair (Mr. Michael Prue):** No, no; we're not asking you to.

**Ms. Myra Hewitt:** I know.

**Mr. Paul Miller:** Okay. All right.

**Ms. Myra Hewitt:** I feel like I'm sort of veering into that. I'm just saying that I know what the policy intention was when I, as the drafts person, was asked to do something. It was to ensure that the environmental protections that were afforded during an individual EA process were not lost, but to create a more standardized, clearer process so that people weren't tied up in process, not knowing what the next steps were.

**The Chair (Mr. Michael Prue):** Mr. Murdoch.

**Mr. Bill Murdoch:** Okay. I just want to thank you for coming. My main thing in this was just to find out who actually had the power behind the bills, to meet the people who actually write these things. On this one, that was your concern. I'll be more in the next one. I just want to thank you for coming.

**Ms. Myra Hewitt:** Thank you.

**Mr. Bill Murdoch:** Now I know who has the power. Well, it isn't us. We sort of sit around here and fumble around all the time, so it's really nice to see who makes up all these rules.

**Ms. Myra Hewitt:** I can assure you, we don't think we have the power—

**Mr. Bill Murdoch:** Well, yeah. No, we do.

**The Chair (Mr. Michael Prue):** Mr. Leal.

**Ms. Myra Hewitt:** Somebody must.



**Mr. Jeff Leal:** I think it's important that we have some clarity there. This change was made to expedite transit projects in the province of Ontario, to create employment opportunities for those Ontario and Canadian manufacturers that were in this particular category, like Bombardier in Thunder Bay, and some other players. Right now—

*Interjection.*

**Mr. Jeff Leal:** No, listen. I know, in the region of Durham, they're going through the full EA process to site an energy-from-waste facility and—

**The Chair (Mr. Michael Prue):** Mr. Leal, you're getting very close to policy here.

**Mr. Jeff Leal:** Oh, no, but I just—I mean, if we're going to yip and yap here, I think we've got to understand what's going on.

*Interjection:* “Yip and yap”?

**Mr. Jeff Leal:** This was changed to expedite transit projects in the province of Ontario, solely. Thank you very much.

**Ms. Myra Hewitt:** And not at the cost of environmental protections.

**Mr. Jeff Leal:** Exactly. Thank you.

**The Chair (Mr. Michael Prue):** All right. Mr. Martiniuk.

**Mr. Gerry Martiniuk:** As I understand it, a statute authorizes two particular classes: II and II.1, whatever they are; that's statutory. The statute, you say, also has a provision which provides that this act can be exempted by regulation. Correct?

**Ms. Myra Hewitt:** Correct.

**Mr. Gerry Martiniuk:** There's an authorization for that. I assume, therefore, there is also a particular legislative provision that states that if a particular project is exempted from II or II.1, then they can, by regulation, create a new class and create a new process, because it's not a statutory process; it's now a regulation. You're saying that there is a statutory provision which provides that the cabinet, by regulation, can establish a new category, in effect, by exemption and setting out an entirely new process.

**Ms. Myra Hewitt:** Yes. The ministry and cabinet have done that by imposing conditions of that exemption. So you're only exempt if you follow the process and follow it properly; otherwise, you have to have an environmental assessment done under part II.

**Mr. Gerry Martiniuk:** Could you provide the particular section in the statute, please?

**Ms. Myra Hewitt:** Just bear with me. It's section 39, “The Lieutenant Governor in Council may make regulations ... exempting any person, class of persons, undertaking or class of undertakings from this act or the regulations or a section or portion of a section thereof and imposing conditions with respect to that exemption.”

**Mr. Gerry Martiniuk:** Thank you.

**Ms. Myra Hewitt:** That's clause (f) of section 39 of the Environmental Assessment Act.

**Mr. Gerry Martiniuk:** Thank you very much.

**The Chair (Mr. Michael Prue):** Mr. Ruprecht.

**Mr. Tony Ruprecht:** Just a quick question in terms of the influence this committee wields. I know Mr. Murdoch was saying earlier that you've got the power, but from what I see on “note to the committee” here—

*Interjection.*

**Mr. Tony Ruprecht:** Yes. The committee members should note that we've got all kinds of influence. I'm just wondering, Mr. Chair: In terms of these recommendations that went back to you, have we made many of them? I don't recall making many recommendations on this matter for the Ministry of the Environment and, in fact, to other ministries.

**The Chair (Mr. Michael Prue):** As was explained on the last occasion—and I can let the lawyer reiterate that—the lawyers look through hundreds of regulations and they pick out some they think may be in violation of the statute that created them. They report to us. Our job is to vet those and then to recommend to the House whether we think the regulations may not be in accordance with the law. We don't change them. We just report back and say, “These may or may not be in accordance with the law.”

As we heard from this deputant, they are still working on it. They are still actively considering the suggestions that have been made by our legal counsel as to whether or not they are correct. That's our role. We do this every year, and it may not be the environment; it could be any ministry that the lawyers come up with, and every year we have four or five or 10 recommendations and every year we do this. That's the role of this committee.

**Mr. Bill Murdoch:** I missed that meeting last year.

**The Chair (Mr. Michael Prue):** Perhaps, if you'd like to—

**Ms. Marta Kennedy:** Sure. When we sent a letter to the Ministry of the Environment this year, we actually wrote them about four different regulations, and this is the only one that we still have concerns about or that we're going forward with and are including in this report.

This report only has potential recommendations for the committee on about five regulations. The report from last year included eight regulations. If you'd like, I can provide a listing of the recommendations.

**Mr. Tony Ruprecht:** Thank you very much.

**The Chair (Mr. Michael Prue):** And next year, there will be more.

**Mr. Bill Murdoch:** Next year, they know they've got to come now. They always have to.

**The Chair (Mr. Michael Prue):** Okay. Mr. Miller.

**Mr. Paul Miller:** I'd like to know the difference between a full EA and a streamlined EA. If you've created this provision for the new, streamlined EA pertaining to transportation, would it be reasonable to think that you could streamline for other projects as well, which would be incinerators, landfills etc.? Could they not continue, saying, “You've made a class for transportation. Now we want a class for these types of projects too”?

You claim in II.1 that everything is done in the streamlined process that's done in the regular one. So



why would there be a time element difference between a full EA and a streamlined EA?

**Ms. Myra Hewitt:** Again, I think we're delving deep into the policy and program area that really isn't, with all due respect, the job—

**Mr. Paul Miller:** So I'm not going to get an answer, is what you're saying.

**Ms. Myra Hewitt:** Can I just indicate that what I did say was that the environmental protections associated with an individual EA are carried forward into that streamlined process? So the details around what gets done is—

**Mr. Paul Miller:** So all the stuff from the first one is brought to the next one. Every category in II.1 is involved in the streamlined one, you're telling me.

0920

**Ms. Myra Hewitt:** I don't really know what you mean, Mr. Miller, about all the categories. I'm really sorry. I'd like to be more helpful.

**Mr. Paul Miller:** I'll get you the information.

**The Chair (Mr. Michael Prue):** Any other questions? Seeing none, I thank you very much. We'll hold the debate on this until we've heard from the second deputant.

**Ms. Myra Hewitt:** Thank you very much.

**The Chair (Mr. Michael Prue):** I would invite forward the Ministry of Natural Resources. For the purposes of Hansard, if you could identify yourself before we begin.

**Ms. Gina Cunningham:** My name is Gina Cunningham. I'm a policy liaison officer with the Ministry of Natural Resources. I've worked for MNR off and on since 1975. My primary role is working on central agency submissions related to fish and wildlife.

**Ms. Alison MacKenzie:** My name is Alison MacKenzie. I'm legal counsel at the Ministry of Natural Resources. I've worked at MNR since 1991. My main area is fish and wildlife. I have been working with the Fish and Wildlife Conservation Act, which is the act under which the question today arises, since 1999, when it came into effect. I'm working on many of the regulations under that act.

**The Chair (Mr. Michael Prue):** All right. Our legal counsel has made a recommendation; you've seen it. There seems to be some dichotomy between the ministry and what our legal counsel thinks should be done. If you could explain the ministry's position, and then we'll open it up for questions.

**Ms. Alison MacKenzie:** Yes. I would just like to follow up on what you heard last Wednesday at your meeting. Your counsel did send a letter to our office last summer asking about regulation 144 of 2008 under the Fish and Wildlife Conservation Act. That's a regulation which amends the rules about wild turkey hunting. A specific question was asked to our office about a portion of that regulation. The regulation was made by the cabinet, but the question that was asked is why one part of that regulation was included. Should that part have been made by the minister?

Our office did write back to your counsel, and we explained why our legal opinion is that the regulation was properly made. It was made strictly in accordance with the authority of the Fish and Wildlife Conservation Act.

We haven't been permitted to see the draft report, so I'm not sure what material the committee has in front of it. This is quite a technical question. It deals with the statutory interpretation of the legislation, so I'm going to try to explain it the best I can. I'm not sure if I'm allowed to give the committee a copy of the regulation, for example, or anything like that.

**The Chair (Mr. Michael Prue):** Of course.

**Ms. Alison MacKenzie:** Okay. I brought with me—

**Mr. Bill Murdoch:** As long as you make a note to tell the ministry you did this.

**Ms. Alison MacKenzie:** Pardon me?

**Mr. Bill Murdoch:** As long as you make a note and you put it in your diary that you talked to all of us guys. You know how you have to do that. You can't talk to one of us unless you make a note and let the ministry know you did this.

**Ms. Alison MacKenzie:** Okay. This is the regulation; this is a copy of the regulation. I brought three items with me that I'd like the committee members to have just in case it's helpful. I brought a copy of the regulation, I brought the table of contents for the larger regulation to which this is an amendment, and I brought an excerpt from the act.

**Mr. Bill Murdoch:** It's the turkeys.

**Ms. Alison MacKenzie:** Turkeys. Wild turkeys.

**Mr. Bill Murdoch:** Why don't you just make it simple? The way I got it, anyway, it said that the minister would decide how many turkeys we could kill, but somewhere else it said the cabinet. We were just wondering who actually could do it then.

**The Chair (Mr. Michael Prue):** I think in laymen's terms, in a nutshell, that's more or less it.

**Ms. Alison MacKenzie:** Yes. Okay. Maybe I won't need those things, but let me try to explain it to you in a very, very brief way.

**Mr. Bill Murdoch:** That would be good.

**Ms. Alison MacKenzie:** The scheme of the Fish and Wildlife Conservation Act is that there are two lists of regulation-making authorities in the act.

There is a list of regulation-making authorities that is for the cabinet, and that is quite a long list: There are about 56 items on that list. Within the items, there are sub-items. So there are hundreds of topics upon which the cabinet may make regulations.

In the act, there is also a list of regulations that the minister may make. That is a shorter list: It's 10. Within that, there are also sub-items.

So the scheme of the legislation is that the preponderance of regulation-making authority in this act rests with the cabinet, but there have been a number of items that have been carved out and given to the minister. The intention of that was that those were items that were less controversial and more routine and things that would



not generally need the scrutiny and perspective of the cabinet table.

There are those two lists in the act, and the general rule is that the cabinet makes these regulations and the minister may make a smaller number of types of regulations. But there is also another rule in the act, and that's found in subsection 113(2), and it says that the cabinet may make any regulation that the minister may make. I'm just going to read that to you. It says:

*"Concurrent authority"*

"(2) The Lieutenant Governor in Council may make any regulation that the minister has authority to make and may amend or revoke any regulation made by the minister."

Despite the fact that there are two sets of rules, and generally those regulations are made by the body that is the head of that particular list, there's this other rule that allows the cabinet to make any regulation that the minister may make.

Now, in the case of the regulation that is before you, it's a regulation to deal with turkey hunting. It has many provisions in it that fall under the cabinet part of the hunting authority, because cabinet has the authority to regulate with respect to hunting, particularly hunting, trapping or possession of wildlife. That falls under the cabinet list. The regulation was made by the cabinet, but using the concurrent authority there were a few provisions in that regulation that dealt with bag limits that were included in that regulation. They were included in the regulation so that the regulation made sense and all worked together. Those were put in under the authority of the concurrent authority of the cabinet to make the regulations.

**Mr. Bill Murdoch:** Okay. The cabinet actually can do everything, so they're sort of the boss; they can make regulations on anything. But you pick out some and you say, "We'll let the minister do that," but the cabinet can overrule the minister.

**Ms. Alison MacKenzie:** It's not a matter of overruling the minister; it's a matter of having concurrent authority to deal with the same things that the minister could deal with.

**Mr. Bill Murdoch:** That sounds the same to me.

**Ms. Alison MacKenzie:** It's not overruling. It's just who is going to do something—

**Mr. Bill Murdoch:** Okay, let's say the minister said you can kill 20 turkeys and the cabinet said no; you can only kill 10. Who would win?

**Ms. Alison MacKenzie:** That wouldn't happen, with respect.

**Mr. Bill Murdoch:** Well, okay. How come?

**Ms. Alison MacKenzie:** Because it's a question of who is going to make a regulation at a particular time.

**Mr. Bill Murdoch:** So the minister has made those recommendations and that's it, then?

**Ms. Alison MacKenzie:** This particular regulation that we're speaking about was made by the cabinet.

**Ms. Gina Cunningham:** I wonder if it would be useful to indicate the instances in which the current authority

was intended to be used. There are two scenarios foreseen.

One was where a group of amendments were being proposed and some of them fell under the cabinet authority and some of them fell under the minister's authority. In order to give a complete picture of what was being proposed, there are occasions where it makes sense to put all of them in a regulation that's approved by cabinet.

The other scenario in which the concurrent authority was foreseen to be used was a situation in which the minister had the regulation-making authority but for whatever reason it was felt that it might benefit from discussion at cabinet.

**Mr. Bill Murdoch:** Yes, so they're making the decision.

*Interjections.*

**Mr. Bill Murdoch:** We didn't find this, of course. You sent your regulations to the Legislative Assembly, then they found this and thought something wasn't right. You can jump in here any time.

**The Chair (Mr. Michael Prue):** Go ahead.

**Ms. Marta Kennedy:** Okay. I think the question isn't whether or not it's legitimate for the minister and cabinet to have concurrent authority. That's not the problem. The question arose—if you look at this document, the Fish and Wildlife Conservation Act, on page 5 in my copy it's marked with highlights at the top and it's paragraph 4. This is the section that gives the Lieutenant Governor in Council the ability to make regulations "prohibiting or regulating the hunting, trapping or possession of wild life, other than..." and "prescribing limits on the number of wildlife of a species, sex, size" or whatever "that may be killed..."

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That's the kill limit section, and this paragraph, this ability to set kill limits, seems to be carving out from the Lieutenant Governor in Council's ability to make regulations. The question is: If the Lieutenant Governor in Council is able to make regulations about hunting except for kill limits—it says "other than"—and the minister is given the power to make regulations setting kill limits, but the Lieutenant Governor in Council has the ability to make regulations on everything the minister can make, what does this "other than" kill limit section do?

**Ms. Alison MacKenzie:** I do have an explanation for that. This is a question of statutory interpretation, and obviously our office takes a different interpretation than the legislative researchers. The way we read this, it's leading from what I was saying earlier about the fact that the scheme of this legislation is that there are two lists, one setting out the authorities of the cabinet for regulation-making powers and the other setting the authorities of the minister for regulation-making powers.

Now, if you look at paragraph 4, where the highlighting is, you'll see that generally the power to prohibit or regulate the hunting, trapping or possession of wildlife rests with the cabinet. Then there are three things that have been highlighted as "other than." Those three things



are in the list of the minister's powers. If you turn to section 113, you will see that those three things are paragraphs 2, 3 and 4 of the minister's powers. The reason that these have been carved out here, from paragraph 4 of section 112, is to make it very clear which list they're on. They're on the minister's list. Although the cabinet has the general power to regulate hunting, trapping or possession, these three areas that deal with hunting, trapping and possession are on the minister's list.

That makes it clear that the two lists are very clear; otherwise, there would be overlap. If there wasn't that exclusion carved out of paragraph 4—if it just said “prohibiting or regulating hunting, trapping or possession,” full stop—when you moved on to the minister's list, you would see paragraphs 2, 3 and 4, and you would say “Oh, there's overlap here. How does this work?” It makes the two lists very clear that those are minister's powers. But notwithstanding that there are two very clear lists, there's also an additional rule that you find in subsection 113(2). Despite the fact that there are two very clear lists, the Lieutenant Governor in Council still may make any regulation the minister has the authority to make.

That's how we read it. We don't see that there's any confusion or conflict in the wording of the legislation.

**The Chair (Mr. Michael Prue):** This has certainly confused me.

Mr. Miller, and then Mr. Martiniuk.

**Mr. Paul Miller:** I just want to know who gets to kill the—who gets the call? Who do the turkeys appeal to? Do they appeal to the cabinet, or do they appeal to the minister? “We're losing brothers and sisters here. Who do we appeal to?” Or who do the environmentalists appeal to? Who do the people who are concerned about the kill levels and the amount—this was an endangered species a few years ago, if I'm not mistaken. They were reintroduced—

**Ms. Gina Cunningham:** It was extirpated.

**Ms. Alison MacKenzie:** It was an extirpated species. It was reintroduced in the 1950s.

**Mr. Paul Miller:** Obviously the minister and the minister's staff would have the most information and access to the turkey hunt and to the provisions provided to hunters and to everyone involved, and they would be asking the ministry for the rules, the licensing and all the things. Why would you involve the cabinet to overrule the minister? It doesn't make sense to me. Why would you have two bodies controlling the same legislation when they're both with the government; they're still under the control of the government? I really think the minister is being undermined here. If he makes a decision, and the cabinet—not with their lack of information or lack of involvement on a daily basis—decides to overrule him, that is a conflict of interest and could cause some real problems. Would that be a fair statement?

**Ms. Gina Cunningham:** There's never been an instance where anything has been overruled.

**Mr. Paul Miller:** Why have it, then?

**Ms. Gina Cunningham:** In order to deal with situations such as the one that arose here, where some of the provisions being proposed were under the authority of the cabinet and some were under the authority of the minister. All the regular processes applied. There was posting on the environmental registry, consultation with stakeholders, consultation with the turkey advisory group and then the regulation was brought forward to cabinet.

**Mr. Paul Miller:** Well, I think it's duplication.

**The Chair (Mr. Michael Prue):** Mr. Martiniuk.

**Mr. Gerry Martiniuk:** As I understand it, the statute is quite clear that the Lieutenant Governor in Council can overrule or amend the ministry regulation at any time. Is that not correct? That's what subsection 113(2) says under “Concurrent authority.”

**Ms. Alison MacKenzie:** Okay. I would like to restate my view. I really don't see it as overruling. These provisions are talking about the making of regulations, so the question is: Who is going to make a particular regulation at a particular time? You're right that subsection 113(2) does give cabinet the authority to make any regulation under this legislation. So the cabinet can make a regulation. A regulation is made from time to time, and a regulation may be amended from time to time. I don't consider that to be overruling anything.

**Mr. Gerry Martiniuk:** Well, it says specifically that not only do they have the authority the ministry has to make any regulations; they also may amend or revoke. If that isn't overruling, I don't know what is, because it's specifically stated. Not only do they have the authority to make the same regulations as the minister, but they may amend or revoke any regulation, which means they overrule the minister in the case where they feel they don't like what the ministry has done. There's nothing wrong with that—I'm not suggesting there's anything wrong with that—but it's very clear that they can revoke.

In the regulation, what they are trying to do—I don't understand what they're trying to do. Are they trying to delegate their authority to the ministry and saying, “We are now overruling the provisions of the statute, which we can, at any time, amend or revoke any regulation,” and now they're saying, “Only the ministry has the authority, and we relinquish our right to revoke or overrule the regulation of the ministry”?

**Ms. Alison MacKenzie:** No, that's not what the regulation does. If you look at the regulation that was handed out to you—it's regulation 144/08—the first provision of that regulation, as an example, revokes an old clause. It's a regulation amending regulation 665/98. One of the other handouts I gave to you, which is a one-page handout, is just the table of contents of regulation 665/98. So you can see that it's the general hunting regulation, and it covers a number of topics. It has 18 topics in it, and they're under various subjects. So if a person wanted to know what the rules were for hunting deer or hunting wild turkey, they would be able to see what part of the regulation to look to. What the specific regulation 144/08 does is amend part VI of the general hunting regulation.



If you turn back to it, you will see, as I said, using the first provision as an example, that it revokes a clause that was formerly in 665/98 and replaces it with the following: “(a) who hunts small game or wild turkey;” I don’t know what that means at the moment, because it’s not in its context, as it’s amending a larger reg. But the reference in the legislation to the ability to revoke a regulation is that when you’re amending regulations as they go, you have to take out the old parts and put in the new parts. So you have to revoke something and replace it with something else. That’s the power that any person, be it the cabinet or the minister, has to have when amending regulations to be able to make them comprehensible.

The idea here is that these regulations have to be comprehensible to the general public, so that someone who’s interested in hunting wild turkey can go to the regulation, read the provisions and understand the rules.

**Ms. Gina Cunningham:** The purpose of this regulation, primarily, was to make amendments to allow not only a spring wild turkey hunt but a fall wild turkey hunt, and because the regulation previously only referred to a spring hunt, there had to be some revisions to the text to allow for that.

**The Chair (Mr. Michael Prue):** Mr. Murdoch.  
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**Mr. Bill Murdoch:** I’ll just ask a real simple question, then. The minister says you can have 10 kills. That’s what the regulation is, by the minister. That’s what she says; this would just say that. But somebody in cabinet doesn’t like that and they bring it up in the cabinet. They can say, “No, that’s not right. They can have 20.” Is that not right? It isn’t right, then? They couldn’t do that? Cabinet could not make that decision?

**Mr. Gerry Martiniuk:** Yes, it says they can.

**Mr. Bill Murdoch:** What about the statute that says they can’t?

**Ms. Gina Cunningham:** It would have to be done through a subsequent regulation.

**Ms. Alison MacKenzie:** As well, any regulation going to cabinet has to be recommended by the minister. There has to be a conscious decision—

**Mr. Bill Murdoch:** You don’t think cabinet can just bring that up on their own?

**Ms. Alison MacKenzie:** They can bring it up on their own and they can discuss it, but in order to make it into a regulation, they have to go through the entire process for making regulations that Ms. Cunningham described to you a moment ago.

**Mr. Bill Murdoch:** Then how come it says this in here? You read that again. You got it right there, that one where it says: “Cabinet may....” We’re just trying to understand this. It may sound a little frivolous because it’s turkeys, but we’re trying to find out what this committee is all about.

**Ms. Alison MacKenzie:** I assure you, we don’t consider this to be frivolous at all. We consider this to be very serious, and it applies to all the regulations that the ministry makes under this legislation.

**Mr. Bill Murdoch:** We just happened to pick this one, that’s all, and that’s what I’m trying to say.

**Ms. Alison MacKenzie:** That’s right. This is the example that we’re talking about.

**Mr. Bill Murdoch:** Okay. But it says “current authority.” I don’t know what section this is under.

*Interjections.*

**Ms. Alison MacKenzie:** It’s subsection (2) of section 113.

**Mr. Bill Murdoch:** But it says: “The Lieutenant Governor in Council may make any regulation that the minister has authority to make and may amend or revoke any regulation made by the minister.” That’s what it says. To do that, there’s another process, then, you’re telling me?

**Ms. Alison MacKenzie:** No. What I’m saying to you is that all regulations are made through a process. Some regulations may be made by the cabinet; some regulations may be made by the minister. In this statute and in several other statutes in Ontario, there is also a concurrent regulation-making authority which provides that the cabinet may make all the regulations under the act. But it doesn’t matter which authority is making a regulation; when a regulation is made, it has to go through the proper process, the legal process required to make a regulation. It’s not like the cabinet is just going to step in and unilaterally do something; they have to go through the entire regulation-making process.

**Ms. Gina Cunningham:** And that includes having the minister sign the regulation and have the submission go to cabinet.

**Mr. Bill Murdoch:** It doesn’t make sense to me.

**The Chair (Mr. Michael Prue):** Mr. Ruprecht.

**Mr. Tony Ruprecht:** Maybe I can throw some clarity on this very quickly. I don’t know if you’ve been in cabinet or not, but I can remember—

**The Chair (Mr. Michael Prue):** I have not.

**Mr. Tony Ruprecht:** You have not. I can remember. A minister makes a recommendation, and then there’s a hue and cry from the public because the recommendation is either not acceptable or, they would say in this case, “We only have two or three birds with a beard. That species would be at risk.” You’ve got to watch that too, as an aside.

**Mr. Bill Murdoch:** They’re not at risk, let me tell you.

**Mr. Tony Ruprecht:** The point being, that goes to cabinet, and somebody says in cabinet—any minister can say in cabinet, “I’ve had so many phone calls on this. Let’s send this back.” And the minister will say, “Okay, fine; I’ll look at it again.” So in most cases, that happens in a co-operative spirit. It goes back to the minister and the whole process starts again.

**Mr. Bill Murdoch:** Okay, but that’s not the way it reads.

**Mr. Tony Ruprecht:** Well, that’s how it works.

**Mr. Bill Murdoch:** If you trust the system, then you’re different than I am.



**Mr. Tony Ruprecht:** Yes, I trust the system. The system is pretty good.

**The Chair (Mr. Michael Prue):** If I could ask our legislative counsel: Are you satisfied with the explanation that has been given?

**Ms. Marta Kennedy:** I think we got a little side-tracked onto the concurrent-authority part of it.

Mr. Murdoch, I think that the problems that you're seeing probably don't exist in practice, as the ministry has explained. I think you're right, in my opinion, that cabinet can overrule a minister's regulation, but in the sense that they would make another one on top of it. The minister would make their regulation, and then if, six months or 10 months or 12 months or three years down the line, they decide they need to change the regulation, what this subsection does is it allows the cabinet to make the change instead of the minister, for whatever reason—the minister is out of the country or he's not available or for whatever reason they decide it's an important issue for cabinet to look at.

So 113(2) probably—similar subsections are in other statutes, and so probably that's not really a problem. It's a practice question, and that's not really what we're looking at.

The concern that has been raised is if the act says that cabinet can make regulations about hunting, except for kill limits, and the minister can make regulations about kill limits, but cabinet can make regulations about anything the minister can make regulations about, what does that "except for" do? The ministry has explained its position, and our position is in the draft report.

**Mr. Bill Murdoch:** Yes, you don't agree, and I don't know where it goes. It's just no wonder government takes so long to do anything. It's crazy.

**The Chair (Mr. Michael Prue):** If I could use the prerogative of the Chair to just ask a question: The reason that I think we are concerned about this is that the limit, as set out in the legislation, is one turkey, and then a second one if you have a second licence, and that's it for the year. What if somebody goes out and kills three or four or five turkeys and says that the kill limit was not set by the minister as required but was set by cabinet? Is that a legal defence? That's what it comes down to, in a nutshell: who did it, whether they had the authority to do it, and somebody who goes out and breaks the law has a legal defence.

**Ms. Alison MacKenzie:** As I said to you earlier, our view is that the regulation was properly made. The interpretation put forward by the legislative research lawyers would read into subsection 113(2) an exclusion that is not there. So we don't think that reading is in accordance with the legislation.

In answer to your question about a prosecution, maybe someone could raise that as a defence. I can't say that they couldn't, because defence lawyers are always creative and looking for something to defend their clients. If they did raise that as a defence, maybe they could convince a justice of the peace that the regulation wasn't properly made. If that was the case, then, of

course, the crown would appeal because we agree with our interpretation and we believe the regulation was properly made. In my view, that is the better interpretation of the legislation. I do not think that a court would, in the face of the concurrent authority, find that the regulation was improperly made.

**Mr. Bas Balkissoon:** A question, Mr. Chair.

**The Chair (Mr. Michael Prue):** A question, Mr. Balkissoon.

**Mr. Bas Balkissoon:** Thank you. I just want to understand something. If I look at 112, subparagraph 4(iii)—

**Ms. Alison MacKenzie:** Yes.

**Mr. Bas Balkissoon:** The minister can do that.

**Ms. Alison MacKenzie:** Yes.

**Mr. Bas Balkissoon:** When the Lieutenant Governor steps in and is exercising the powers given to the Lieutenant Governor, where the Lieutenant Governor can do anything the minister can do, can the Lieutenant Governor do this particularly?

**Ms. Alison MacKenzie:** Yes.

**Mr. Bas Balkissoon:** So then why do we need the word saying "exception"?

**Ms. Alison MacKenzie:** You mean the "other than"?

**The Chair (Mr. Michael Prue):** Yes.

**Ms. Alison MacKenzie:** I tried to explain that earlier. Our view is that it's making it clear what is the content of the two lists, because the Lieutenant Governor does have the power, as in the lead-in words of paragraph 4 of section 112, to prohibit or regulate the hunting, trapping or possession of wildlife. That is a very broad category and it includes these three subsets that are actually in the minister's power, if you turn over and you look at the list of the items that belong to the minister.

**Mr. Bas Balkissoon:** Where is the list?

**Ms. Alison MacKenzie:** The list is section 113, on the bottom of page 8. It starts on the bottom of page 8. You see "Regulations: minister." Then if you look at paragraphs 2, 3 and 4, right there at the very bottom of the page, those are the same three items that have been excluded in paragraph 4 that we were looking at earlier on page 5. So it's just making it very clear that those are minister's powers.

**Mr. Bas Balkissoon:** I guess that's the problem for us. When you read 4 on its own, it doesn't refer you to the other part clearly, and that's what is causing the confusion here.

**Ms. Alison MacKenzie:** But if you look at the list of regulations that the minister may make, there are 10 items on that list. It's not just these three items. There are 10 things about which the minister may make regulations, and then, when you look at the next paragraph, it says, "The Lieutenant Governor in Council may make any regulation that the minister has authority to make." That includes all 10, which includes 2, 3 and 4. It doesn't say "excluding the items listed on"—

**Mr. Bas Balkissoon:** Okay. But I go back again: If the Lieutenant Governor can do everything the minister can do, then where is the difference between the powers



given to each in the concurrent process that allows an elimination of certain lists? I don't understand it. And I'm sorry; I'm a layperson, so how is a layperson out there going to understand it?

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**Ms. Alison MacKenzie:** The 10 items that are on the minister's list: The minister may make regulations in relation to only those 10 items.

**Mr. Bas Balkissoon:** So you're saying that it's the reverse process; that the minister cannot do—

**Ms. Alison MacKenzie:** What the cabinet can do.

**Mr. Bas Balkissoon:** What the cabinet can do. So the cabinet has a longer list.

**Ms. Alison MacKenzie:** Yes.

**Mr. Bas Balkissoon:** Somehow you've got to reword this to clarify that, because we were looking at it the other way. Somewhere in here, it has to be a little clearer that it's the cabinet that has more powers than the minister.

**Ms. Alison MacKenzie:** The preponderance of regulation-making authority lies with the cabinet. That is clear. When you're reading a statute—we only have a couple of provisions here before us, but if you read section 112 and you look at it, it has 56 items on it and then the minister's list only has 10. So it's clear that the general preponderance of regulation-making authority under this legislation rests with the cabinet.

**Mr. Bas Balkissoon:** Maybe the lawyers clearly understand that, but now that it was explained the other way, somehow this document doesn't clearly state that.

**The Chair (Mr. Michael Prue):** All right. I have Mr. Miller next. Our job is to point out if things are not clear. If, at the end of the day, it's not clear to us, then we simply send it to the Legislature and ask them to clarify it. That's our role, so if you're not clear, that's our job. Mr. Miller.

**Mr. Paul Miller:** Not only am I not clear, I concur with my colleagues. My final question is: Why are there two lists? Why can't there be one list that the minister uses as a guideline for the cabinet? Why do we have two separate lists countermanning each other, overruling each other, interlocking with each other? To me, that's duplication and doesn't make sense. One turkey; one list. Simple. Why do we complicate this? I don't understand this at all. There's no common sense here at all. None. So I don't know why we're having two separate lists. The government instructs the minister; the minister is the government. They're the same entity. Why would you have two lists for the same entity? It's absolutely insane.

**Mr. Tony Ruprecht:** Make a recommendation, Paul.

**Mr. Paul Miller:** I recommend one list for both the ministry and the cabinet to go by as a guideline for turkeys.

**The Chair (Mr. Michael Prue):** This is not a question. Are there any other questions of the deputants?

**Mr. Tony Ruprecht:** Excuse me, Mr. Chair. This was not a question.

**Mr. Paul Miller:** That's a statement.

**The Chair (Mr. Michael Prue):** I know; that's why I've gone to you. Are there any other questions of the deputants? Then thank you very much for attending.

We bring it back into committee. On the last occasion, we dealt with the entire report, save and except the two recommendations in question, for which we invited staff to attend.

The first committee recommendation involves the environment. You have it on page 5. For the record, "The committee accepts the ministry's response and recommends that ... the Ministry of the Environment inform the committee of the results of the ministry's consideration." They said that it's under consideration. Is that an acceptable recommendation? Does anybody want to speak to it? Or we can get a motion on the floor—

**Mr. Tony Ruprecht:** Could you repeat that last part?

**The Chair (Mr. Michael Prue):** The recommendation is that, "The Ministry of the Environment"—that's the first deputation, not the second—"inform the committee of the results of the ministry's consideration." They have said that it is still under consideration. So we're asking them to report back to us when they finally make that decision. That's what they said.

Any discussion? Are there any motions, any discussion? Do we just accept that?

**Mr. Paul Miller:** I'm happy with them reporting back.

**The Chair (Mr. Michael Prue):** All right. Is there a motion to accept the recommendation?

*Interjection.*

**The Chair (Mr. Michael Prue):** It's already done? Okay. We're all fine with it? It's done.

The second one is the contentious one.

**Mr. Tony Ruprecht:** Excuse me: Do we need a motion for that?

**The Chair (Mr. Michael Prue):** We don't need a motion for that. We're going to adopt the whole report, but I'm not sure yet, because there's still this one outstanding one. This is up to the committee. The recommendation on the top of page 8 deals with the second and the contentious issue with the Ministry of Natural Resources.

**Mr. Gerry Martiniuk:** It's the turkey resolution.

**The Chair (Mr. Michael Prue):** Yes. And the recommendation that has been made—I'll read it into the record. The recommendation that has been made by our legal counsel is that, "The Ministry of Natural Resources amend O.Reg. 665/98 (Hunting) to remove all provisions that prescribe limits on the number of wildlife of a species, sex, size, age or type that may be killed, captured or possessed, and inform the committee once these amendments have been made."

That is the recommendation that has been put forward by legal staff for discussion.

Mr. Balkissoon and then Mr. Ruprecht.

**Mr. Bas Balkissoon:** I think the last line of questioning that I asked the legal person for the ministry sort of clarified things. I think it shed some light, but it's not clear in the documents that she gave us that that's the



way to interpret it. So it's a matter of clarifying that document and how to interpret it.

What it basically says is that cabinet has the most powers. They have all the powers of the minister, but the minister has a restricted set of powers, which is just a list of 10. The minister cannot make regulations to the larger list, which is 56 or 57, but cabinet can always make all of them, including what the minister can do. That's what it should really read, as a layperson; I'm not a lawyer.

I think our recommendation should really reflect what is wrong with the regulation, because the average person on the street trying to read it can make the mistake of thinking that cabinet can overrule what the minister does and the minister can overrule what cabinet does, and back and forth. I have to say, when the legal person kept saying "concurrent," I kept thinking it's the same for both of them, until I finally figured out, "Let's ask this question." It's the old rule in politics: If you don't ask the right question, you don't get the answer.

So our recommendation probably needs to be changed, that the document, whatever it was—section 112—needs to be clarified; that cabinet has more powers than the minister and the minister has restricted powers to the 10 when it comes to the list.

**The Chair (Mr. Michael Prue):** Okay, but that's not a motion. Think about your motion. Mr. Ruprecht said he wanted to make a motion.

**Mr. Tony Ruprecht:** Yes. Notwithstanding the good point that Mr. Balkissoon is actually making, I want to make this recommendation, and that's on page 8—you read it earlier—that the Ministry of Natural Resources amend regulation 665/98. I'm going to make that motion, Mr. Chair.

**The Chair (Mr. Michael Prue):** All right. So we have a motion on the floor. Discussion on the motion on the floor?

**Mr. Gerry Martiniuk:** I would like to possibly make an amendment that would state, further, that the ministry clarify the duplication of lists and the powers of the minister and the executive council, I guess, in relation to the making of regulations.

**The Chair (Mr. Michael Prue):** So we have an amendment to the motion. Speaking to the amendment, Mr. Rinaldi.

**Mr. Lou Rinaldi:** I guess it's more for clarification of the amendment. Even our research counsel agreed that those provisions are in other statutes as well. So if we attempt to make revisions or suggest amendments, what happens to other statutes?

**Mr. Bas Balkissoon:** Statutes don't change.

**Mr. Lou Rinaldi:** No, no. I'm just saying that those provisions they gave us today are common.

**Ms. Marta Kennedy:** Similar provisions exist in other statutes.

**Mr. Lou Rinaldi:** Right. So if the amendment that Mr. Martiniuk is suggesting is to really amend that, then what happens to others?

**Mr. Gerry Martiniuk:** It's a recommendation; it's not an amendment.

**The Chair (Mr. Michael Prue):** Yes. This is a report we are making. We're not changing any statutes—

**Mr. Bill Murdoch:** We have no power.

**Mr. Lou Rinaldi:** I understand that.

**The Chair (Mr. Michael Prue):** And we are only reporting in five small areas. That's all we're looking at.

**Ms. Marta Kennedy:** Mr. Rinaldi, what exists in other statutes is the provision that says that the cabinet can make any regulation the minister can make. It's not common in other statutes, but it does exist. The uniqueness of the fish and wildlife statute is this exception, this "other than" exception.

Even though it says that cabinet can make any regulation the minister can make, this exception is, from what I can tell, unique to the fish and wildlife act.

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**Mr. Lou Rinaldi:** So for clarification, is the amendment, then, reflecting that?

**Mr. Gerry Martiniuk:** Yes. I'm confused. That's all we're indicating to them.

**Mr. Bas Balkissoon:** And you're a lawyer.

**Mr. Gerry Martiniuk:** Yes. There is some confusion. No, no, it's not just I am confused.

**The Chair (Mr. Michael Prue):** One at a time.

**Mr. Gerry Martiniuk:** Our counsel has indicated that possibly what they're doing is ambiguous at best. Confusion in the public would be very understandable if the counsels, in fact, are at loggerheads.

**Mr. Tony Ruprecht:** Yes. You don't want to use the word "confused."

*Interjection.*

**Mr. Gerry Martiniuk:** I don't want the word "confused." I think that the amendment indicates that.

*Interjections.*

**The Chair (Mr. Michael Prue):** Okay. We're having a lot of—are there any other—Mr. Leal.

**Mr. Jeff Leal:** Mr. Prue, if we make these changes—I think there's a consistent line of thinking here—and it goes back to the ministry, then they will come back to us. Is that the—

**Mr. Bas Balkissoon:** They may or may not.

**The Chair (Mr. Michael Prue):** It goes to the Legislature—

**Mr. Jeff Leal:** And we may make a legislative change to incorporate what we're recommending today?

**Mr. Bas Balkissoon:** No, no.

**The Chair (Mr. Michael Prue):** No. The Legislature will determine what to do with it. I am sure that it will filter back to the ministry pretty quickly.

**Mr. Bas Balkissoon:** It's only advice.

**The Chair (Mr. Michael Prue):** It's only advice.

**Mr. Bas Balkissoon:** They may choose to accept it or not accept it.

**The Chair (Mr. Michael Prue):** We're giving advice.

**Mr. Bas Balkissoon:** Neutral advice.

**The Chair (Mr. Michael Prue):** And if I can, we have the advice of eight people who are thoroughly confused by the regulation, and asking them, "Is this

really what you want? Don't you think this needs to be clarified?"

**Mr. Jeff Leal:** I'm just looking at the process to make the change to get rid of the ambiguity and—

**Mr. Tony Ruprecht:** He has to leave, so can we move on?

**The Chair (Mr. Michael Prue):** So if I could, what I'm going to say that we are doing is we are going to have the recommendation and then we are also going to have the amendment carry as advice to the ministry to clarify the lists.

**Mr. Bas Balkissoon:** Mr. Chair, one question of you: The recommendation that we have—I would agree with Mr. Martiniuk on the opposite side. What bothers me about the recommendation is the word "remove." The ministry may choose to keep it, but what we need to do is clarify it, because today it's ambiguous and it's causing confusion among the eight of us.

**Mr. Gerry Martiniuk:** How about "consider removing"?

**Mr. Bill Murdoch:** That would be an amendment to the amendment.

**Mr. Gerry Martiniuk:** Yes, well—

**Mr. Bas Balkissoon:** Or "remove the ambiguity."

**Mr. Gerry Martiniuk:** That's what my little addition is.

**Mr. Lou Rinaldi:** I would support the first amendment that Mr. Martiniuk—

**Mr. Bas Balkissoon:** Yes, "consider removing."

**The Chair (Mr. Michael Prue):** Okay. All right. First of all, on the amendment of Mr. Martiniuk—I don't have any amendments to the amendment. On the amendment of Mr. Martiniuk, all those in favour? Opposed? That carries.

**The Clerk of the Committee (Mr. Trevor Day):** Just to be clear, the recommendation was the first part of it. His amendment was that we also add, in this report, that there be clarity as to what's on each list.

**The Chair (Mr. Michael Prue):** Yes.

**The Clerk of the Committee (Mr. Trevor Day):** That's what is going to go in the report: this, and the clarity.

**The Chair (Mr. Michael Prue):** All right. So on the main motion, which is the recommendation, as amended—okay. All those in favour? Opposed? That's carried.

There's unanimity on this. The other items have all been dealt with.

**Mr. Paul Miller:** All I know is that the turkeys are going to get shot, and they don't have any representation.

*Interjections.*

**The Chair (Mr. Michael Prue):** Shall the report be adopted? Carried.

Shall I present the report to the Legislature? Adopted.

Do you give the authority to the Chair to sign off on the final copy? Okay; done.

Before you go, legal counsel had a couple of small things she wanted to discuss.

*Interjection:* Aw.

**Ms. Marta Kennedy:** I'm sorry.

**The Chair (Mr. Michael Prue):** We still have 15 minutes before we—

*Interjections.*

**Ms. Marta Kennedy:** They're very quick. They're just things about regulations that I thought I would bring up that might be of interest to you. As I said, they're very quick.

One has to do with the motion in the House at the beginning of March having to do with Ipperwash Provincial Park. What I thought I'd point out to you is that one of the reasons why that motion was introduced was because provincial parks are made by regulations. The statute, the Provincial Parks and Conservation Reserves Act, says that if you want to change the size of a provincial park by at least 1% or 50 or more hectares, you must introduce a motion in the House that the House agrees to. You must get the endorsement of the House to this change. So that was the actual reason why that motion had to be introduced and had to be passed. That's just the first thing. It was interesting; I thought I would pass it along to you.

**The Chair (Mr. Michael Prue):** We wondered why.

**Ms. Marta Kennedy:** The second thing has to do with a recent case you might have seen in the papers about stunt driving, where there was a lady who was driving back from Ottawa, or Kanata I think. She had been to see her daughter who had had a baby. She was on Highway 7 and she was clocked going at 131 kilometres an hour after she had tried to pass a transport truck, and she was charged with stunt driving.

The lower court found that the stunt driving provision was unconstitutional and struck it down and said that she was, therefore, not guilty. It did not stand.

Recently, two weeks ago, the Court of Appeal said, "Well, yes, actually, you know what? It is good, that law. Stunt driving is constitutional and we're going to send it back and she has to have a new trial."

I thought this was interesting because stunt driving—even though the actual offence is in the Highway Traffic Act, the description of stunt driving is in a regulation. What the court actually struck down originally was the regulation. It found that regulation unconstitutional. That's not actually listed on the guidelines under standing order 108(i), but it probably should be because constitutionality of regulations is also important.

I thought that was interesting. I would just bring that up to you because it was in the papers and it has to do with a regulation.

**Mr. Paul Miller:** Are there two lists on that, or one?

**Ms. Marta Kennedy:** I think there's probably only one.

There's one other thing I would just mention to you very briefly. It was in the Auditor General's 2009 general report in chapter 3. There is a section about user fees. User fees need to be only—let me try and say that again.

**Mr. Bill Murdoch:** You've got to get it right. We're pretty good here.



**Mr. Bas Balkissoon:** We're pretty good at getting confused.

**Ms. Marta Kennedy:** There's a difference between a user fee and a tax. User fees are only supposed to cover the cost of the service. A tax is bigger than that. If a user fee is more than the cost of the service, then it may be that it's considered an invalid tax and the province has to pay back some of the user fee.

This was interesting to me because user fees are often set by regulation, which would again be something that would come before the committee to look at.

And that's it.

**The Chair (Mr. Michael Prue):** Okay.

**Mr. Bill Murdoch:** I can see we're going to be busy.

**Mr. Paul Miller:** She's doing her job.

**The Chair (Mr. Michael Prue):** If I can just ask the clerk in terms of—we're not here next week, but the week after that, is there likely to be a committee? Do we have work?

**The Clerk of the Committee (Mr. Trevor Day):** Probably not. We've got a couple of private bills. There's some more coming down the pipe. We're going to wait until we have a few of them and put together a big meeting.

**Mr. Bill Murdoch:** MNR might be back to see us.

**The Chair (Mr. Michael Prue):** All right. So then, with that, the meeting is adjourned.

*The committee adjourned at 1008.*





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Mr. Lou Rinaldi (Northumberland–Quinte West L)

Mr. Tony Ruprecht (Davenport L)

#### Substitutions / Membres remplaçants

Mr. Bas Balkissoon (Scarborough–Rouge River L)

#### Also taking part / Autres participants et participantes

Ms. Gina Cunningham, policy liaison officer, Ministry of Natural Resources

Ms. Myra Hewitt, counsel, Ministry of the Environment

Ms. Alison MacKenzie, counsel, Ministry of Natural Resources

#### Clerk pro tem / Greffier par intérim

Mr. Trevor Day

#### Staff / Personnel

Ms. Marta Kennedy, research officer,  
Legislative Research Service

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## **Legislative Assembly of Ontario**

Second Session, 39<sup>th</sup> Parliament

## **Assemblée législative de l'Ontario**

Deuxième session, 39<sup>e</sup> législature

# **Official Report of Debates (Hansard)**

Wednesday 28 April 2010

# **Journal des débats (Hansard)**

Mercredi 28 avril 2010

**Standing Committee on  
Regulations and Private Bills**

**Comité permanent des  
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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE  
ON REGULATIONS  
AND PRIVATE BILLS

Wednesday 28 April 2010

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES  
RÈGLEMENTS ET DES PROJETS DE LOI  
D'INTÉRÊT PRIVÉ

Mercredi 28 avril 2010

*The committee met at 0901 in room 151.*

## SUBCOMMITTEE BUSINESS

**The Chair (Mr. Michael Prue):** We'll call the meeting to order. We have one housekeeping item before I call Ms. Albanese forward. The first housekeeping item, I'm given to understand, is that Mr. Martiniuk has a motion.

**Mr. Gerry Martiniuk:** I move that Mr. Rinaldi be appointed as government member of the subcommittee on committee business.

**The Chair (Mr. Michael Prue):** Any discussion on the motion? All those in favour? Opposed? That carries. Welcome, Mr. Rinaldi.

**Mr. Lou Rinaldi:** Very glad to be here.

**Mr. Gerry Martiniuk:** You lucky guy.

**Mr. Lou Rinaldi:** I hear the Chair supplies wine at every meeting.

**The Chair (Mr. Michael Prue):** Upon request—okay, next meeting.

## DEEPA GAS LIMITED ACT, 2010

Consideration of Bill Pr31, An Act to revive Deepa Gas Limited.

**The Chair (Mr. Michael Prue):** We're going to deal with the bills, probably in reverse order, upon the request of some of the sponsors. Therefore, I'd like to call Bill Pr31 and for Ms. Albanese and the deputant to come forward. For the purposes of Hansard, if the deputant could identify himself.

**Mr. Ashok Kumar:** My first name is Ashok and my last name is Kumar.

**The Chair (Mr. Michael Prue):** All right, now to the sponsor, if you have any comments on the bill.

**Mrs. Laura Albanese:** I would like to say that I'm very pleased to be here. I'm here with Mr. Ashok Kumar for An Act to revive Deepa Gas Limited. I'm pleased to be sponsoring this bill on his behalf.

**The Chair (Mr. Michael Prue):** Okay. Applicant: Do you have any comments that you wish to make?

**Mr. Ashok Kumar:** Just that, by mistake, it was dissolved. It was kind of a miscommunication between the accountant and myself. We didn't know that he had transferred the assets before dissolving it, so it was kind

of dissolved in a hurry. So we are asking to revive it so we can transfer the assets.

**The Chair (Mr. Michael Prue):** Thank you very much. Are there any interested parties? Does anyone else wish to speak to this bill? Seeing none, parliamentary assistant, are there any comments from the government?

**Mr. Lou Rinaldi:** No, we have no objection. We'd like to see this move forward, if possible.

**The Chair (Mr. Michael Prue):** Are there any questions from committee members? Seeing none, are the members ready to vote? All right. Then we have the following:

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Carried.

962 BLOOR STREET WEST  
LIMITED ACT, 2010

Consideration of Bill Pr29, An Act to revive 962 Bloor Street West Limited.

**The Chair (Mr. Michael Prue):** I see Mr. Ruprecht has arrived, so we're going to go to Bill Pr29. For the purposes of Hansard, if the deputant could identify himself.

**Mr. David Moretti:** David Moretti.

**The Chair (Mr. Michael Prue):** Thank you very much. Mr. Ruprecht, do you have any comments?

**Mr. Tony Ruprecht:** Thank you, Mr. Chair. I appreciate your ruling to tie this over for a few minutes.

I'm here with David Moretti, who has applied for special legislation to revive 962 Bloor Street West Ltd. The applicant represents that he was a director and the president of the corporation when it was dissolved. The corporation was voluntarily dissolved under the Business Corporations Act on February 23, 2009, pursuant to an article for dissolution. The applicant would like to revive this corporation in order to deal with a certain property that was held in the corporation's name at the time of the dissolution.

It is appropriate to grant this application, in my view.



**The Chair (Mr. Michael Prue):** Does the applicant have any comments?

**Mr. David Moretti:** I do not.

**The Chair (Mr. Michael Prue):** Is there anyone present who wishes to speak to this bill? Seeing none, parliamentary assistant, are there any comments from the government?

**Mr. Lou Rinaldi:** No, we have no comments. We'd like to see this move forward as well.

**The Chair (Mr. Michael Prue):** Any questions from committee members? Seeing none, are the members ready to vote? Okay.

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Carried.

**Mr. David Moretti:** Thank you, Mr. Chair.

**Mr. Tony Ruprecht:** And I want to thank Mr. Moretti for his patience.

#### DURHAM REGION CLASSIC MUSTANG CLUB ACT, 2010

Consideration of Bill Pr30, An Act to revive the Durham Region Classic Mustang Club.

**The Chair (Mr. Michael Prue):** Last, but not least, Mr. O'Toole, if you would come forward with the deputant. If the deputant could, for the purposes of Hansard, identify himself.

**Mr. Frank Fielding:** Frank Fielding.

**The Chair (Mr. Michael Prue):** Mr. O'Toole, the floor is yours. Do you have any comments?

**Mr. John O'Toole:** Yes. It's a pleasure to be here this morning with my constituent Frank Fielding, who has worked so hard to bring forward Bill Pr30, An Act to revive the Durham Region Classic Mustang Club.

That's the statement. He has done all of the rigorous requirements to meet this opportunity to present to the committee. He's seeking your support to resurrect the registration of this once-established classic Mustang club. Again, I'm happy that my constituent has done all the work and I'm just taking all the glory.

**The Chair (Mr. Michael Prue):** Very good. Mr. Fielding, do you have anything you wish to say?

**Mr. Frank Fielding:** Basically, the main reason that we want to revive it is so we can get liability insurance. It was set down accidentally, and the insurance companies require that you're incorporated to get liability insurance, which means that the cruise night that we have—a couple of individuals have taken it over because the club doesn't have the insurance to run it.

0910

**The Chair (Mr. Michael Prue):** I thank you very much. Are there any interested parties, anyone who wishes to speak to this bill? Anyone in attendance? I see

no one. Parliamentary assistant, are there any comments from the government?

**Mr. Lou Rinaldi:** First of all, I congratulate MPP O'Toole for admitting that he doesn't do much work; his constituents do all the work. Congratulations.

We don't have any comments. I was hoping that we'd see a rare Mustang out here today, but I guess we'll have to wait for a nicer day. We have no objections.

**The Chair (Mr. Michael Prue):** All right. Are there questions from committee members? Any questions from committee members? Yes?

**Mr. Gerry Martiniuk:** I just have a question to the parliamentary assistant. After the bill is passed, assuming it's passed, would this—I would think that this being a non-profit corporation, this committee might wish to see it relieved of some of the costs that we can control as we have done for other non-profit organizations that come before us. Do you have any comments?

**Mr. Lou Rinaldi:** No. I don't have any comments.

**Mr. Gerry Martiniuk:** I'll make the motion, and then we can discuss it.

**The Chair (Mr. Michael Prue):** I have been advised by the clerk, and it is my understanding as well, that it must be a charitable organization with a charitable number for this to work.

**Mr. Gerry Martiniuk:** Rather than a non-profit?

**The Chair (Mr. Michael Prue):** Rather than a non-profit. Do you have a charitable number?

**Mr. Frank Fielding:** No. Just non-profit.

**Mr. Gerry Martiniuk:** Fine. That's fine.

**The Chair (Mr. Michael Prue):** I would caution that it's—

**Mr. Gerry Martiniuk:** I will accept the clerk's summation.

**The Chair (Mr. Michael Prue):** Any other questions from committee members? Any others? Are the members ready to vote?

**Mr. John O'Toole:** Chair, I just want to comment if I may, in the light-hearted nature of the discussion this morning, that quite frequently, Haugen's chicken in Port Perry has what they call a drive night or a cruise night. When is it?

**Mr. Frank Fielding:** Cruise nights are Wednesday nights.

**Mr. John O'Toole:** They're very well attended from across the GTA.

I think it's important that Frank, being from the Port Perry area, takes this on. I want to clarify that I have no direct conflict myself because I worked at General Motors. I would have preferred it was called the Camaro, but nonetheless, we'll leave that discussion to the other members.

**Mr. Gerry Martiniuk:** He drives a German car.

**Mr. John O'Toole:** We all have our predispositions.

**The Chair (Mr. Michael Prue):** Are we ready to vote? Yes? Oh, a question.

**Mr. Tony Ruprecht:** Since I'm a Mustang fan, what do you mean exactly by a classic Mustang? Is it only the one year, the 1967 one?

**Mr. Frank Fielding:** The classic—the club goes from 1964 to 1978.

**Mr. Tony Ruprecht:** But the car itself, which is the classic Mustang? Which year is it?

**Mr. Frank Fielding:** From 1964 right to 1978.

**Mr. Tony Ruprecht:** Thank you.

**The Chair (Mr. Michael Prue):** We're going to proceed now to the vote. Everybody is ready?

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Thank you very much. That would conclude our business for today. Meeting adjourned.

*The committee adjourned at 0913.*









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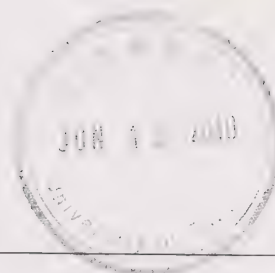
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#### Staff / Personnel

Ms. Susan Klein, legislative counsel

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Second Session, 39<sup>th</sup> Parliament

## Assemblée législative de l'Ontario

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Wednesday 2 June 2010

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STANDING COMMITTEE  
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Wednesday 2 June 2010

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COMITÉ PERMANENT DES  
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D'INTÉRÊT PRIVÉ

Mercredi 2 juin 2010

*The committee met at 0902 in room 151.*

**The Chair (Mr. Michael Prue):** Welcome, members of the committee, ladies and gentlemen. We have three items on the agenda; however, the first item is problematic. We are awaiting a document ostensibly coming from Winnipeg. So I'm proposing that we hold the first item down to see whether it arrives before the conclusion of the meeting so that we can continue. I trust that's okay, Mr. Redway.

**Mr. Alan Redway:** That's fine.

**The Chair (Mr. Michael Prue):** Okay, thank you.

LUSO CANADIAN CHARITABLE SOCIETY  
ACT (TAX RELIEF), 2010

Consideration of Bill Pr34, An Act respecting the Luso Canadian Charitable Society.

**The Chair (Mr. Michael Prue):** What we're going to do then is proceed with Bill Pr34, An Act respecting the Luso Canadian Charitable Society. I would like to call forward the sponsor, Laura Albanese, and the applicant, Andrew Paton, legal counsel, and any others to come forward. If you could introduce yourselves, and after the introductions the floor is yours, Ms. Albanese.

**Mrs. Laura Albanese:** Well, thank you, Mr. Chair—

**The Chair (Mr. Michael Prue):** No, first of all he has to say who he is for Hansard.

**Mr. Andrew Paton:** My name is Andrew Paton.

**Mrs. Laura Albanese:** Thank you, Mr. Chair, and to all the members of the committee I'm very pleased to be here this morning to sponsor this bill. The applicant is the Luso Canadian Charitable Society, previously known as the Society of Portuguese Disabled Persons Building Fund. This is an important organization in the riding of York South-Weston and I'm here with Mr. Andrew Paton, who will speak to the bill briefly.

**The Chair (Mr. Michael Prue):** Do you have any comments?

**Mr. Andrew Paton:** I really don't have any comments, Mr. Chair. I think that the material contained in my letter of March 19, the submission with the compendium, fairly clearly outlines what Luso Canadian Charitable Society is and what it does, but I'd be happy to answer any questions if there are any.

**The Chair (Mr. Michael Prue):** Okay. Before that, I have to ask if there are any other interested parties.

Anyone else here to speak to this bill? Seeing none, parliamentary assistant, are there any comments from the government?

**Mrs. Donna H. Cansfield:** No comments from the government.

**The Chair (Mr. Michael Prue):** Okay. Any questions from committee members? Mr. Ruprecht.

**Mr. Tony Ruprecht:** First, thank you very much, Mr. Chair. I'd like to congratulate Laura Albanese for pushing this bill so hard. I think she deserves some credit for it.

Second, I'd like to say just a few words about Mr. Andrew Paton, who served with me on city council in the city of Toronto from 1978—

**Mr. Andrew Paton:** You had hair then. Remember that?

**Mr. Jeff Leal:** What colour was it?

**Mr. Andrew Paton:** That one, I won't get into.

*Interjections.*

**Mr. Tony Ruprecht:** In any case, I'm very happy to see you and also to recognize the hard work you put into this bill. Congratulations, and I hope to see you again one of these days.

**Mr. Andrew Paton:** Thank you.

**The Chair (Mr. Michael Prue):** Any other questions or comments?

**Mr. Gilles Bisson:** Mine is just a procedural one.

**The Chair (Mr. Michael Prue):** Mr. Bisson.

**Mr. Gilles Bisson:** To the legislative counsel: An organization can apply for exemption from paying municipal taxes. What is the threshold that the province wants people to meet to be able to get to that point? Do they have to have municipal support? How does it work?

**Ms. Susan Klein:** I don't know what the government's criteria are; that would be a policy question. The way the legislation works is, the legislation doesn't actually give the tax relief. The legislation allows the municipality to pass a bylaw giving the tax relief. It's done by the municipality. We don't need their approval. They need to take the action to give the tax relief. So it's in the municipality's hands.

**Mr. Gilles Bisson:** A follow-up question on the same thing: I know, at times, municipalities have agreed to not charge municipal taxes, let's say, to the Legion or some organization within the community. But I've never seen it have to come to a bill. Do they also have the authority



to do it themselves without a statute? I'm just trying to figure—

**Ms. Susan Klein:** There is some, but I think it only goes up to 40%. I'm not 100% sure, but there is something in the Municipal Act, 2001.

**Mr. Gilles Bisson:** Maybe the proponent can answer that question. I'm in support of what you're doing, but I just want to—

**Mr. Andrew Paton:** Yes, there is a provision that the municipality can give a certain amount of relief, and it is up to 40%.

**Mr. Gilles Bisson:** So the maximum is 40% that the municipality can give, and if you want to go beyond that threshold, you need to have a statute.

**Mr. Andrew Paton:** Yes, and as counsel has indicated, we do have the support of the city of Toronto. If this bill is passed, we then go back to the city, and the city now has the authority to pass a bylaw—and we assume they will pass the bylaw, since they've told the Legislature that they're in support of this.

**Mr. Gilles Bisson:** Okay. Thank you.

**The Chair (Mr. Michael Prue):** Any other questions? Any other comments? Seeing none, are the members ready to vote?

**Mr. Tony Ruprecht:** Yes.

**The Chair (Mr. Michael Prue):** Yes? Okay. If I can just get the sheet—

**Interjection:** It's behind you.

**The Chair (Mr. Michael Prue):** It's behind me. Look at that. I just don't want to miss anything.

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall section 4 carry? Carried.

Shall section 5 carry? Carried.

Shall section 6 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Okay, the next item, if there is a motion—

*Interjection.*

**The Chair (Mr. Michael Prue):** Yes?

**Mr. David Caplan:** Mr. Chair, it has been the practice of this committee, when charitable groups come forward, that we waive the fees associated with private—

**The Chair (Mr. Michael Prue):** You anticipated my question.

**Mr. David Caplan:** Ah, well, Mr. Chair. If you'll allow, I'll move that fees be waived for the Luso Canadian Charitable Society.

**The Chair (Mr. Michael Prue):** Okay, we have a motion to waive the fees related to this application. Mr. Bisson?

**Mr. Gilles Bisson:** I should know this, but how much is the fee nowadays?

**The Clerk pro tem (Mr. Trevor Day):** It's really just the printing costs of the bill—

**Mr. Gilles Bisson:** Yes, and that's what I'm wondering—the total—just out of curiosity. I'm not opposing. I'm just trying to—

**The Clerk pro tem (Mr. Trevor Day):** It's in the neighbourhood of \$200 to \$300.

**The Chair (Mr. Michael Prue):** I'm advised by the clerk it's in the neighbourhood of \$200 to \$300.

**Mr. Gilles Bisson:** I'll write you a cheque. The province doesn't have the money. We have a deficit, so I'll write you a cheque.

**Mr. David Caplan:** Those New Democrats are flush.

**The Chair (Mr. Michael Prue):** All right. There is a motion to waive fees. Any other discussion? Seeing no other discussion, all those in favour? Opposed? That carries.

I thank everyone. We'll go on to the next item.

**Mrs. Laura Albanese:** Thank you very much.

ONTARIO INSTITUTE  
OF THE PURCHASING MANAGEMENT  
ASSOCIATION OF CANADA INC.  
ACT, 2010

Consideration of Bill Pr35, An Act respecting the Ontario Institute of the Purchasing Management Association of Canada Inc.

**The Chair (Mr. Michael Prue):** The next item is Bill Pr35, which is An Act respecting the Ontario Institute of the Purchasing Management Association of Canada Inc.

The sponsor is Mr. Rinaldi.

*Interjection.*

**The Chair (Mr. Michael Prue):** Okay. Ms. Cansfield, I understand that you're going to do that?

**Mrs. Donna H. Cansfield:** I can sit here?

**The Chair (Mr. Michael Prue):** Yes.

**Mrs. Donna H. Cansfield:** Great.

**The Chair (Mr. Michael Prue):** The applicant—I have listed three people: R. David Fletcher, president and chief executive officer; Sandra Gilmer, member of the board; and Danielle Waldman, counsel. I assume that is the three of you.

**Mr. R. David Fletcher:** That's right.

**The Chair (Mr. Michael Prue):** Just for the record of Hansard, so they know, could you each identify who you are?

**Ms. Sandra Gilmer:** Sandra Gilmer.

**Mr. R. David Fletcher:** R. David Fletcher.

**Ms. Danielle Waldman:** Danielle Waldman.

**The Chair (Mr. Michael Prue):** Perfect. Ms. Cansfield, the floor is yours.

**Mrs. Donna H. Cansfield:** Thank you very much, Chair. I'm pleased to sponsor, on behalf of provincial member Lou Rinaldi, Bill Pr35, An Act respecting the Ontario Institute of the Purchasing Management Association of Canada Inc., and I will let the applicants speak to this.

**The Chair (Mr. Michael Prue):** Thank you very much. Applicant?

**Mr. R. David Fletcher:** Thanks very much. We really appreciate the opportunity to sit before members of the committee to address our bill today. The information of the bill is outlined in the compendium that was provided to you.

Essentially we're seeking the bill to have special legislation to amend our current act to allow us the privilege and ability to award the designation "certified supply chain management professional" in addition to our current designation, "certified professional purchaser."

We are doing this as a way of reflecting the evolving nature of our profession as supply chain management and to ensure that our members reach the proper standards of professional conduct and capabilities as they move forward.

That's essentially the gist of the bill, and I'd be happy to answer any questions you may have.

**The Chair (Mr. Michael Prue):** Thank you. Before we do that, I have to ask: Are there any interested parties in the room? Anyone who has come to speak to this?

Seeing none, parliamentary assistant, are there any comments from the government?

**Mrs. Donna H. Cansfield:** The government is not opposed.

**The Chair (Mr. Michael Prue):** Okay. Any questions from committee members? Mr. Bisson.

**Mr. Gilles Bisson:** Well, just a couple of questions just to better understand. You currently have an act and that act does what? It just constitutes your corporate structure?

**Mr. R. David Fletcher:** It constitutes our corporate structure as a self-regulating body for the supply chain management profession, and it dictates the structure of our organization, the Ontario Institute of PMAC, and allows us to award the designation "certified professional purchaser."

**Mr. Gilles Bisson:** Currently?

**Mr. R. David Fletcher:** Currently.

**Mr. Gilles Bisson:** So what is this needed for, if you already currently have that?

**Mr. R. David Fletcher:** The profession of purchasing and procurement has evolved over the years. It's now a broader profession known as supply chain management, which incorporates procurement, purchasing, transportation, logistics and that kind of—

**Mr. Gilles Bisson:** What I thought you said was that you currently have the right to grant certification under the current act.

**Mr. R. David Fletcher:** That's correct.

**Mr. Gilles Bisson:** So how would this be different? What does this give you that you don't have now?

**Mr. R. David Fletcher:** This would give us the ability to award a designation called "certified supply chain management"—

**Mr. Gilles Bisson:** Which is not stated in the current act.

**Mr. R. David Fletcher:** That's correct.

**Mr. Gilles Bisson:** Oh, I see. All right. Fairly straightforward. Thank you.

**The Chair (Mr. Michael Prue):** Any other questions or comments? Seeing none, are members ready to vote?

**Mr. Kim Craitor:** Yes, always ready.

**The Chair (Mr. Michael Prue):** Okay. Then, shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall section 4 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Thank you very much.

I understand the certificate is not here. We have one of two choices. If a member wants, if you anticipate it might come in the next half hour—

*Interjection.*

**The Chair (Mr. Michael Prue):** No, no, just listen. If you think it might come in the next half hour, if somebody proposes a recess, if that is acceptable, because I don't want—this bill then would not come back until September. So if somebody wants to move a recess until a quarter to 10—

**Mr. Kim Craitor:** Recess.

**Interjection:** So moved.

**The Chair (Mr. Michael Prue):** If it's not here by then, I don't think there's much we can do. So, we'll recess till a quarter to 10 and we'll hope in the next half hour it arrives.

We are recessed until a quarter to 10.

*The committee recessed from 0914 to 0952.*

## SANDRINGHAM DEVELOPMENTS LTD.

ACT, 2010

Consideration of Bill Pr33, An Act to revive Sandringham Developments Ltd.

**The Chair (Mr. Michael Prue):** We'll call the meeting to order. We have good news that the requested document has arrived, which will allow the bill to proceed. Therefore, we're going to call the bill, An Act to revive Sandringham Developments Ltd.

I see that everyone is already there. Just for the record, please introduce yourselves for the purposes of Hansard.

**Mr. Alan Redway:** I'm Alan Redway, counsel.

**Mr. Noordin Esmail:** Noordin Esmail.

**Mr. David Caplan:** I'm David Caplan, MPP, Don Valley East.

**The Chair (Mr. Michael Prue):** Mr. Caplan, you are the sponsor. The floor is yours.

**Mr. David Caplan:** I was contacted by Mr. Redway as to whether I'd be agreeable to sponsor. I believe it's a rather non-controversial matter, and I hope the committee will support the bill. I'll let Mr. Redway talk about its contents.

**The Chair (Mr. Michael Prue):** Mr. Redway, the floor is yours.

**Mr. Alan Redway:** Basically, this is a bill to revive a company which went through the process of dissolving



quite legally and then discovered that the agreement they had entered into in the development of this land in Brampton suddenly came forth with some more financial results, and in order to obtain the benefit of that, they have to revive the corporation. That's basically what it's all about.

**The Chair (Mr. Michael Prue):** Does the applicant have any comments?

**Mr. Noordine Esmail:** Well, he said this will be extremely short.

**The Chair (Mr. Michael Prue):** All right. Are there any interested parties to this application? Seeing none, parliamentary assistant, are there any comments from the government?

**Mrs. Donna H. Cansfield:** No. We're not opposed.

**The Chair (Mr. Michael Prue):** Committee members, any questions? Mr. Bisson.

**Mr. Gilles Bisson:** So it was a land development?

**Mr. Alan Redway:** It was a land development, that's right, in Brampton. It's part of a group of companies that were involved in this. Not being an absolute expert on this myself, I gather, as you can see from the compendium number 2, that traditionally they have a cost-sharing agreement with a trustee. The idea is that the trustee ultimately makes a final accounting for the funds after they've been collected and all the bills have been paid etc. We thought all of that had been done back in 2004, but in 2009 we got a letter from the lawyers for the trustee that said, "Wait a minute. We're still paying bills and finalizing things and there's still some money here."

**Mr. Gilles Bisson:** Why was that? Because there was some land that wasn't sold, or something? I'm trying to figure out where the money came from.

**Mr. Alan Redway:** It was being developed bit by bit. The land that we have, as I understand it, had been developed before, or houses had been built and sold off before. But there were other people involved in this, other companies and corporations that owned land, that were part of this trust agreement. The concept of the trust is that everybody shares the whole bundle.

**Mr. Gilles Bisson:** What's left to be shared? Is it money or is it property?

**Mr. Alan Redway:** Yes, it's money.

**Mr. Gilles Bisson:** Is it a sizeable amount of money?

**Mr. Alan Redway:** I'm told initially it's \$150,000 for Sandringham.

**Mr. Gilles Bisson:** Are you going to ask us to waive the fees now?

**Mr. David Caplan:** We only do that for charity.

**Mr. Gilles Bisson:** I was just wondering. Maybe there was some, you know—alright, thank you.

**Mr. Michael Prue:** Mr. Leal.

**Mr. Jeff Leal:** Mr. Redway, basically there would have been a number of interests. It's like a typical subdivision agreement?

**Mr. Alan Redway:** Absolutely.

**Mr. Jeff Leal:** There were various players that had shares in the subdivision agreement, and as it got built out, your client had part of that and the corporation was handling that portion of that subdivision? Is that correct?

**Mr. Alan Redway:** That's correct.

**Mr. Jeff Leal:** Very good.

*Interjection.*

**Mr. Alan Redway:** He was on municipal council and he dealt with these—

**Mr. Jeff Leal:** As a city councillor in Peterborough, I remember some of these joint subdivision agreements before and people would come back a decade later and find out that they had proceeds as it got built out to its final description.

**Mr. Alan Redway:** Exactly. That's exactly what has happened here.

**The Chair (Mr. Michael Prue):** Any other questions? Seeing none, are the members ready to vote? I assume so.

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Yes.

Thank you very much. I think that concludes our business for today. Thank you for being patient.

**Mr. Alan Redway:** Thank you, Chair and members of the committee, for your indulgence and your help, and Mr. Day for all his great efforts in making sure that this happened.

**The Chair (Mr. Michael Prue):** Thank you. We're adjourned.

*The committee adjourned at 0959.*





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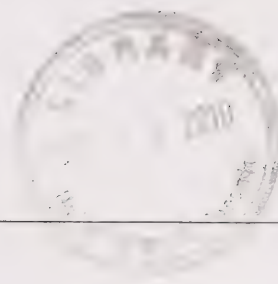
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## Assemblée législative de l'Ontario

Deuxième session, 39<sup>e</sup> législature

# Official Report of Debates (Hansard)

Wednesday 6 October 2010

# Journal des débats (Hansard)

Mercredi 6 octobre 2010

**Standing Committee on  
Regulations and Private Bills**

**Comité permanent des  
règlements et des projets  
de loi d'intérêt privé**

Chair: Michael Prue  
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## LEGISLATIVE ASSEMBLY OF ONTARIO

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE  
ON REGULATIONS  
AND PRIVATE BILLSCOMITÉ PERMANENT DES  
RÈGLEMENTS ET DES PROJETS DE LOI  
D'INTÉRÊT PRIVÉ

Wednesday 6 October 2010

Mercredi 6 octobre 2010

*The committee met at 0901 in room 151.*BIG BAY RESORT  
ASSOCIATION ACT, 2010

Consideration of Bill Pr38, An Act respecting Big Bay Resort Association.

**The Chair (Mr. Michael Prue):** We'll call the meeting to order. There's one item on the agenda today, and that is Bill Pr38, An Act respecting Big Bay Resort Association.

I want to be fair to the applicants. In the order of business, we hear from the applicants first and then other interested parties. We have received five letters from people, and I think there may be some additional people in the audience who are going to be asking for an adjournment to another date in order to be heard. I leave it to you.

I'm going to call you now. You can make your deputiation today or, if you wish, if there is an adjournment granted, you can make it on the following date. I leave that to you.

We're calling the bill to order. The sponsor was to have been Julia Munro, but it's Mr. Martiniuk who has vacated his seat in order to be down here to sponsor the bill. Mr. Martiniuk, the floor is yours. Would you introduce the applicant?

**Mr. Gerry Martiniuk:** Yes. If I may, on behalf of my colleague Julia Munro, I'd like to introduce to you Jeffrey P. Shankman, secretary of the Big Bay Resort Association, the applicant in this case; Robert Comish, legal counsel; and Shauna Dudding of Geranium Corp. Also interested in the audience is J. Mark Joblin, barrister and solicitor for the town of Innisfil. I will leave it to the applicants to make their presentation.

**The Chair (Mr. Michael Prue):** If the applicants could introduce themselves for the purpose of Hansard so that Hansard knows which one is speaking.

**Mr. Jeffrey Shankman:** I will introduce myself first. I'm Jeff Shankman—

**The Chair (Mr. Michael Prue):** You don't have to stand. Please, you have to sit, otherwise the mike can't pick it up.

**Mr. Jeffrey Shankman:** As introduced—and I wish to thank you, Mr. Martiniuk, for your introduction—my name is Jeff Shankman. On the record, it's Jeffrey P.

Shankman. I am appearing before you today as the secretary of Big Bay Resort Association. Mr. Chairman and members of the committee, thank you for affording me and my colleagues the opportunity to appear before you today.

I would address in preliminary remarks the remarks of the Chairman that you now have some five letters on file. I have seen two as of this morning, about 15 minutes ago. I have not seen any more than two.

**The Chair (Mr. Michael Prue):** The others are being photocopied. If you'd like, you can have a recess to read them.

**Mr. Jeffrey Shankman:** If I may, I will make the presentation today. If the need arises, I'll make argument as to why it should be dealt with today and why there is no need for an adjournment. If the committee so desires, I and my colleague Mr. Comish and solicitor for the town, if need be, will address each of these issues raised in correspondence, with the intention of assuring you that what we are doing today is procedural; what we are doing today is allowing a governance model for a fully planned and approved-of resort. So I'll address those concerns during the morning once I've had an opportunity to see the balance of the correspondence, if I may.

**The Chair (Mr. Michael Prue):** Surely. So you are asking for a recess in order to read the correspondence?

**Mr. Jeffrey Shankman:** At the appropriate time, when it arrives. I'm prepared to make my presentation in any event.

**The Chair (Mr. Michael Prue):** There has been a request. Is there a motion to recess for a few minutes to allow the correspondence to be read?

**Mr. Kim Craitor:** So moved.

**The Chair (Mr. Michael Prue):** Moved by Mr. Craitor. Any discussion?

All those in favour? Opposed? That is carried.

We are in recess to allow you to read the correspondence.

*The committee recessed from 0905 to 0913.*

**The Chair (Mr. Michael Prue):** We'll call the meeting back to order. The deputant is now ready. Mr. Shankman, the floor is yours.

**Mr. Jeffrey Shankman:** Thank you, Mr. Chairman and members of the committee. We've had a brief recess so that my colleague and I could receive and review some letters that arrived today, and we have done so.



We've been informed that other people may wish to speak today in support of these pieces of correspondence. May I suggest a procedure to the Chair: I will make my presentation, and if there are those who wish to comment and the Chair and the committee wish to hear from them, whether in support or in opposition, that they then be heard, and that my colleague and I then get to respond to what the committee has heard in whole.

**The Chair (Mr. Michael Prue):** In fact, that's the way we proceed with all hearings. But I want to caution you that there may be a motion not to conclude today but to adjourn for an additional day to hear those who could not be present. That's what I was trying to convey to you. The route we follow is to hear from you and then from anyone else on the agenda; we hear from the parliamentary assistant; there are questions from committee members; and then we proceed to the—

**Mr. Jeffrey Shankman:** What I've specifically asked for, that you didn't include in that, is a response. Then, if a motion is brought, I'll be able to deal with the motion once I've heard what that motion is. Is that an acceptable procedure, Mr. Chair?

**The Chair (Mr. Michael Prue):** That's exactly what happens.

**Mr. Jeffrey Shankman:** Okay. Thank you.

Once again, I thank Mr. Martiniuk for introducing me and my colleague to the committee. I'll repeat that I am appearing as the secretary of Big Bay Resort Association. It is a not-for-profit company that was incorporated under the laws of this province on October 2, 2009. Mr. Comish is a practising lawyer. He's appearing as counsel.

I'm going to make a brief presentation to you in the nature of, firstly, an overview of the components of the resort development; secondly, its current development status; and thirdly, its economic impact for the region and all levels of government. I have provided to the clerk a handout, which is an executive summary of some of the points I'm going to cover, for your ease of reference. There are some illustrations contained in that document that I'll be referring to as well. Mr. Comish will provide you with an overview of the components of the proposed act.

The Big Bay Resort Association wishes to be continued as a special act corporation. Precedents for this model can be found in Bill Pr14 of 1999, the Blue Mountain Village Association Act, and Bill Pr8 of 2006, the Red Leaves Resort Association Act. Both of these are statutes of this province, so there is precedent for what we're seeking today. The Blue Mountain Village Association has been in operation for a number of years now, and Mr. Comish can speak to that.

The bill is supported and approved of by both the county of Simcoe and the town of Innisfil. We have previously submitted to the committee, as part of our compendium of background information, schedule A, being the rationale for the special act corporation.

The Big Bay resort is planned to become a premier four-seasons destination resort that will represent a significant new addition to the tourism landscape in

Simcoe county and the province of Ontario. The resort is designed to be a marina-focused tourist village offering the following: a modern, full-service marina for as many as 1,000 boat slips; 1,480 resort residential condominium units, consisting of townhouses and apartments in three- and four-storey buildings; and two hotels, intended to be a four-star hotel and a three-star hotel, containing a total of up to 520 condominium hotel suites including restaurants and spa facilities. The resort will also contain up to 53,800 square feet, or 5,000 square metres, of conference facilities; 8,000 square metres, or 86,000 square feet, of retail/commercial uses, including shops, boutiques, galleries, restaurants and cafes, all aligned along a boardwalk overlooking the marina.

In addition, there will be an up-to-3,000-square-metre, or 32,280-square-foot, sports and fitness facility, a 300-seat performing arts theatre, and a 200-acre nature preserve.

0920

Other amenities are the 18-hole, Doug-Carrick-designed golf course and clubhouse, and substantial acreage that will be set aside and devoted to public lands and amenities, including a trail system, landscaped and street-scaped areas, and recreation facilities.

At this point, to give you a little more context, I would ask you to please open the material that I gave you today and proceed to the coloured illustrations. I'd like to take you through those, briefly.

The first illustration, as you'll note, is basically the Golden Horseshoe from the Niagara region through Oshawa and up north, including Barrie and Orillia. You'll see, if you can read the fine print in red—Mr. Rinaldi—

**Mr. Lou Rinaldi:** Sorry.

**Mr. Jeffrey Shankman:** That's fine. I'll wait for you to find that illustration, sir.

I'm taking you through the first illustration, sir, and members of the panel. I'm asking you to note where the proposed Big Bay Point Resort development is. It's right at the tip of Kempenfelt Bay, Barrie being seated in the far left side of Kempenfelt Bay. Lake Simcoe, you're familiar with, and, of course, Cook's Bay, down in the southern region. You'll note its proximity to the GTA and the Golden Horseshoe.

I'll ask you to please turn to the second illustration. This illustrates the fully planned, fully designated and zoned community. On the far left, you'll see the proposed golf course. In the middle section, you'll see the 200-acre nature preserve. On the far right, you'll see the dense marina village, which will contain all of the housing, retail shops and amenities. On the far right-hand side is the opening to the mouth of the marina, which connects with Lake Simcoe.

I'd ask you to please turn to the next illustration. This is the illustration of the village itself.

I'll start on the far right-hand side at the very bottom. You'll see the mouth of the marina itself, where it will connect to Lake Simcoe. Immediately to the north of that is the location for the two hotel sites. You'll see, just to



the left of the hotel sites and in the marina, a public pool illustrated there.

You'll note the marina basin with the boat slips. You'll also note these fingers of land that are part of the marina, which will contain residential townhouse units, with boat slips immediately in front of the units and parking to the rear. As you move around the basin to the left, at the far left side, these are three- and four-storey structures which are more apartment-style than townhouse.

Then you move into the north part of the village. You'll have a very dense community around the boardwalk, which goes onto the main docks of the marina. There's a public square on the main dock of the marina. You will note another swimming pool illustrated here on the left-hand side of the north side of the marina basin. The shops—retail and boutiques—will be along this marina boardwalk.

Then, as you move back from the water, we'll start with more densely populated apartment-style condominium residences. Eventually, as you move further north and to the west, you'll see that there's a townhouse community there—all of this designated to be a walking village, with everybody within five to 10 minutes of the downtown core.

It's a new, urbanistic style. It's very dense. It uses the land extremely wisely. Left available, as I said, are a 200-acre nature preserve and the golf course.

To give you some idea of what it will look like someday, we have three illustrations following that.

The first one would be a view from the marina waters onto the boardwalk area, showing a bevy of sights. You can imagine the sounds and the activities that will be there around the marina basin, with all the shops and boutiques, with people strolling back and forth, with the marina being in full operation and boaters coming in and out.

The next illustration is of the boardwalk itself, with the café style. People will go into the shops to make their orders and will enjoy them out on the boardwalk, enjoying all of the sights and scenes. The third one is another illustration of another feature on the boardwalk.

It's designed to be a walking village. When people arrive here, they will put their cars away and they'll be able to walk to every amenity in the village, as I've said, within a short period of time.

The Big Bay Resort has, as I've said, been fully planned and approved of as a four-seasons resort development. The initial application for rezoning was filed in 2002. Since then, the town of Innisfil, county of Simcoe, province of Ontario and two ratepayer groups have entered into written minutes of settlement, and the Ontario Municipal Board granted final approval of the official plan amendments, draft plan of subdivision and zoning bylaws, which paved the way for the development and construction of this unique and compelling project.

Additional municipal and environmental approvals are applied for and will be obtained from time to time in accordance with the approved-of planning instruments

and the development's timetable. During this year, stage 1 tree clearing on the site was completed. Stage 2 tree clearing will be completed by the end of this year, and further site clearing and preparation, as approved by the local authorities, will commence in 2011. The resort is on its way.

The developer continues to work on preparation for the launch of its sales and marketing program for both residential and commercial resort units, as well as its engineering and construction plans for construction of the marina and golf course amenities. A lot of effort, time and money is being poured into the resort, and we are not delaying or waiting. We're continuing to go through the process with the town and the county in accordance with all of the approvals.

The developer is looking forward to the initiation of the marina and golf course construction next year and to the launch of its sales and marketing program in the near future, and that is the reason that we are before you today, because we would like this structure in place, and it must be in place, so that the resort association itself can enter into negotiations and contracts with the town of Innisfil and perhaps the county of Simcoe, which are part of the development and planning process that has been approved of by all levels of government and the Ontario Municipal Board.

In terms of the public interest, as you know, the resort site is located in a unique location within the town of Innisfil in the county of Simcoe. It's just south of and minutes away from the city of Barrie, all its amenities and facilities. The resort is within an hour of metropolitan Toronto and within an hour and a half to two hours of most of the GTA and the Golden Horseshoe areas, encompassing a population of at least six million. My driving times may not be rush hour, but I hope you'll give me a little bit of leeway there.

**The Chair (Mr. Michael Prue):** It might be 2 in the morning that that'll work.

**Mr. Jeffrey Shankman:** Yes. It's a 24-hour resort, by the way, as well.

The site is readily accessible by road, rail, air and water, including Highways 11 and 400, the GO train at the south end of Barrie, the GO bus terminal in downtown Barrie, Toronto international airport, the local Barrie airport, Lake Simcoe, the Trent-Severn waterway and indeed the Great Lakes.

The resort represents a huge investment in Ontario's tourism infrastructure. In total, almost \$630 million will be spent on this project. The resort will offer an extensive array of sport, recreation and outdoor activities, as well as arts, culture and wellness programs, on a year-round basis. Sports will include a championship golf course, tennis and a variety of summer and winter activities and events related to the lake, including boating, fishing, ice-fishing, snowmobiling etc.

The 200-acre nature preserve will present opportunities for education and hands-on experiences with nature, including tours, information sessions, hiking, jogging, biking, and observation of nature and its preservation.



In the public interest as well are the vast economic benefits that will be derived from the resort. As I mentioned, total construction expenditures are going to be in the neighbourhood of \$630 million. The resort will generate the following economic benefits over its development period: 8,161 person-years of much-needed employment and more than \$128.7 million in much-needed government revenues. Of that, some \$23.6 million will flow into the treasury of the province of Ontario. In addition to that, there will be collected harmonized sales tax of \$50 million, less input tax credits—not an insignificant amount. On a full build-out, the resort operations will generate the following economic benefits on an ongoing basis: 2,485 permanent jobs and more than \$30 million in government revenues annually. Of that, some \$8.2 million will flow to the government of Ontario. In addition to that, HST will be collected of \$15 million annually, less the input tax credits. A portion of that, of course, will be revenue to Ontario.

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In conclusion, Mr. Chairman and members of the committee, the Big Bay Resort is a unique, exciting and premier four-season destination resort which will represent a significant contribution to the tourism landscape in Simcoe county. It will attract owners and visitors from the Golden Horseshoe area, other parts of Ontario, other provinces in Canada, the United States of America and beyond. It will generate a significant contribution to Ontarians, much-needed job creation and much-needed revenues. They will accrue to the municipal, provincial and federal governments, all sharing alike.

For all the aforementioned reasons, we request that you proceed to refer this piece of legislation to the House for second and third readings. As I've mentioned, the resort association needs to be in place now so that we can continue our negotiations and discussions with both the town of Innisfil and, through them, the county of Simcoe so that we can enter into the development agreements that they need to enter into with the resort association itself.

Ladies and gentlemen, Mr. Chair, thank you for giving me this opportunity. I know there will be some questions and comments later, which I'd like to address. If you have any now, I'll be happy to deal with them. If not, I will be turning the microphone over to Mr. Comish.

**The Chair (Mr. Michael Prue):** Mr. Comish, the floor is yours.

**Mr. Robert Comish:** Thank you, Mr. Chair, members of the standing committee. My name is Robert Comish, and I'd like to spend just a few minutes to focus on some of the highlights of the bill and the rationale for the bill.

The resort association model that's reflected in the bill is, in fact, a model that's used throughout North America for destination resorts. A destination resort is a unique type of resort. It has essentially three major characteristics. First of all, a destination resort is a major resort usually having capital expended in excess of half a billion dollars and can be well in excess of \$1.5 billion. These resorts are always designed to operate year-round

and they provide a variety of activities, events, and arts and culture programs. The second criterion is that they usually consist of a variety of recreational residences, recreational facilities, a commercial village and a conference facility. The third is that the components of the resort are always owned and operated by a number of individuals and corporations. We'll get in a minute to the reasons why the resort association itself is so critical to this type of destination resort.

As mentioned by my colleague, the bill is modelled on and is almost identical to the two special acts that have already been passed by the Ontario Legislature: the Blue Mountain Village Association Act and the Red Leaves Resort Association Act. The Blue Mountain act was, in fact, passed 10 years ago. I'm still involved and connected with that association. I can tell you that it has functioned extremely well over the 10 years and has provided the essential glue that's necessary to bring all the stakeholders of a destination resort together to help coordinate how the resort operates on an ongoing basis.

The special act will apply to all persons who purchase or lease real property at the resort, all persons who carry on a business at the resort and persons who apply for membership. This would be a category of some business persons who are, in fact, outside the resort but who want to have an association with the resort itself. An example at Blue would be a spa called Le Scandineve, which is a mile and a half away, but they want to have an association with the resort in order to develop their business, so they are also members. All these different membership classes, of course, pay fees to the resort association, which in turn are used to support the resort operations.

Because of the variety of recreational residences, commercial operations and the recreational activities that go on, as well as the multiple owners and operators, it's really important that there be one organization that is there to represent and manage the various interests of the stakeholders.

The principle functions of the resort association are to enable the members to provide some general direction on how the resort should operate at a very high level. It also provides a governance model that enables all of the stakeholders to have some input into how the resort association itself carries out its functions. It also creates a revenue-generating mechanism that in turn provides funds for the resort, maintenance of all the public areas, carries on the events and activities and resort marketing.

This special act will apply to all stakeholders in the resort through a notice that's registered on title to all resort lands. Upon acquiring an interest in a resort land, a person automatically, pursuant to the act, becomes a member of the resort association and is subject to the act and the bylaws of the association.

The bill has some very unique features that are deemed essential for the operation of the resort association. First of all, the bill permits a very broad spectrum of resort association activities that are essential to the successful operation of a destination resort. These activities include the management and maintenance of the



public lands and public facilities, the creation of events, the provision of recreational activities and arts and culture programs.

The resort association also markets the resort and it interfaces with various levels of government on matters that touch upon the interests of the members of the resort association.

The bill also facilitates a governance model which reflects the way the resort itself is created. First of all, it enables the membership to be split into membership classes so that all major stakeholder groups can be represented on the board of directors and have a say in what goes on at the association through their representative.

The board acts as the governing body. Because it is reflective of each of the major stakeholder groups, it is really a coordinating function that enables each stakeholder group—who obviously quite often have different interests in how the resort should be operated and marketed—to bring those interests together in a way that allows for some decision-making process that ultimately ensures the resort is successfully operated.

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The association also will have a varied fee structure. The fees are based on the economic interest that the various membership classes have. Similarly, the voting rights that are provided in the bylaw are somewhat unique because they're based on the level of funding that each membership class provides to the association. The association also has the right under the special act to lien any properties of its members that fail to pay its fees.

In summary, the bill creates a vehicle that is specifically designed to meet the operating needs of a destination resort and to ensure its long-term successful operations.

I also would be more than happy to answer any questions that you might have with regard to the bill.

**The Chair (Mr. Michael Prue):** Thank you. We will leave the questions for a moment. We have to follow the order here, as set out. I have one interested party listed: J. Mark Joblin, barrister and solicitor, town of Innisfil. Would you come forward please?

**Mr. J. Mark Joblin:** Good morning. As you said, my name is Mark Joblin, first initial J., for the record. I'm a solicitor with the firm Loopstra Nixon LLP. We are the representatives of the town of Innisfil, where the resort is to be located.

I'd just like to very briefly state today that the town has had an extensive opportunity for review and comments on the drafts of the bill as it has been put together and the town is in support of the passage of the private bill in its current form and at this time.

I'll just make one further comment with respect to the letters that we received this morning. I've been able to review them quickly and I just want to say that the town has, through our discussions with the proponents of the resort, reviewed similar issues to those that are set out in the letters. We're comfortable, at this time, that those concerns and the rest of the concerns of the town have been addressed in the current version of the bill.

**The Chair (Mr. Michael Prue):** Okay. Are there any other interested parties? If anybody else wishes to speak today, please do.

**Ms. Leemor Valin:** Should I just take a seat?

**The Chair (Mr. Michael Prue):** Absolutely.

**Ms. Leemor Valin:** My name is Leemor Valin. I'm an associate with Donnelly Law. Donnelly Law is counsel for the Innisfil District Association. Mr. Donnelly is away at hearings in Collingwood this week and so I'm here in his place. If you would permit me, I'd like to just read from the letter that we've submitted:

"We act as counsel for the Innisfil District Association. In this capacity, we wish to address your committee regarding the above-noted bill being heard by your committee"—and there's a slight typo in this letter; it's supposed to be "this week."

"The residents of Innisfil, Ontario, have not been consulted about this proposal that will affect their community and therefore I object to the Legislature being used to further this project at this time. From my preliminary review of the bill, it will let the association board declare any property in Innisfil as resort property if the owner applies to the association, as it states in the preamble of the bill:

"Big Bay Resort Association has applied for special legislation to require all persons having a real property interest in the area to be developed as a resort to be members of the association and to be bound by its bylaws and to give the association a right to enforce members' financial obligations to the association..."

"This sentiment is echoed in section 4 of the bill which states that, '(1)Every owner of resort'"—land, I believe it's supposed to be—"is a member of the association." This is not in the public interest.

"The Big Bay Point proposal would feature 2,000 hotel and condominium units, retail space, a 300-seat theatre and an unprecedented 1,000-slip mega-marina. Constructing this marina would require digging a 30-acre hole in the shoreline and destroying 100 acres of forest. Both the Lake Simcoe Protection Act and Conservation Authorities Act prohibit the digging and hardening of the shoreline at Big Bay Point.

"Furthermore, until all the outstanding lawsuits against the opponents of the Big Bay Point mega-marina and 'resort' are resolved, it is inappropriate to expect members of the public to feel free to criticize this project.

"Given our client's very strong interest in protecting Lake Simcoe, and the historic opposition of Campaign Lake Simcoe to this project, I would like to suggest that the clerk give notice to the affected public and circulate some information concerning the bill. Despite the Innisfil District Association being directly involved in the issues surrounding the proposed project, they never received any information regarding the project."

I think that the tone of the letter and what we're trying to say is that people would just like to be given a chance to respond and speak to this issue, and that the matter be adjourned to a later date.

**The Chair (Mr. Michael Prue):** Are there any other persons present who wish to make a deputation today?



Before I ask the committee in terms of questions, we have four additional letters from people asking to make deputations at a later date, and a request from the last deputant from Donnelly Law to adjourn the matter to a new date. I am in the committee's hands. What does the committee wish to do?

**Mr. Lou Rinaldi:** Just a question of clarification: Were all the committee procedures followed as far as notification on how this committee works?

**The Chair (Mr. Michael Prue):** I'm sure they were, but this being a private bill, we don't follow all the same procedures that the Legislature follows with its other committees.

**Mr. David Caplan:** Perhaps the clerk could outline what the procedure was?

**The Chair (Mr. Michael Prue):** The clerk could outline. I don't know whether there were notifications in newspapers and that kind of thing.

**The Clerk of the Committee (Mr. Katch Koch):** In order for a private bill to proceed, a number of requirements must be met. The applicant in this case has a published notice in accordance with standing order 82(e) and has forwarded to the clerk a statutory declaration of the publication. The committee has received a cheque for \$150 payable to the assembly with the application. We have Mrs. Munro, who has agreed to sponsor the bill. With the bill, we have also received the compendiums. In short, all the requirements for the bill to move forward have been met by the applicant.

**Mr. Jeffrey Shankman:** Chair, advertisements were contained in four local newspapers—the Barrie Examiner/Innisfil Examiner, the Bradford Times, the Innisfil Scope and the Barrie Advance/Innisfil Journal—on four different dates: January 28, February 4, February 11 and February 18. It was slightly different for the Innisfil Scope: February 3, February 10, February 17 and February 24. Four different newspapers, four different times.

**The Chair (Mr. Michael Prue):** About this hearing today?

**Mr. Jeffrey Shankman:** Yes. And I swore this affidavit, and it's part of my compendium.

*Interjection.*

**The Chair (Mr. Michael Prue):** I'm being advised by the clerk that these advertisements were not about the hearing today.

**Mr. Jeffrey Shankman:** We don't advertise hearing dates. We were asked to advertise that we made a request for a special act. So the advertisement cannot give the date. We don't know the date.

It was also in the Ontario Gazette, of course.

**The Chair (Mr. Michael Prue):** Mr. Caplan.

**Mr. David Caplan:** Did this appear on a council agenda? Perhaps the lawyer for the town could let us know.

**Mr. J. Mark Joblin:** This bill has gone to town council in a public meeting, and my recollection is that the Innisfil District Association made comments on it to the town council at that time.

**The Chair (Mr. Michael Prue):** Were other deputants there at the town council, both in favour and opposed?

**Mr. J. Mark Joblin:** I don't have a record with me at this time of who made comments on that. I can try to get that information for you, if it would be helpful.

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**The Chair (Mr. Michael Prue):** Mr. Craitor.

**Mr. Kim Craitor:** Thanks, Mr. Chair. I have just a couple of short questions. As a former councillor in Niagara Falls—if I have this correctly, the development came through, it goes through the planning process, there's those who oppose it and those in favour of it, and the council makes the decision. It appears the council supported it. I assume that the applicants who are opposed to it went through the other process, the OMB and all of those processes, and they weren't successful there. Now you come here simply to ask for a piece of legislation that normally would just go through.

I think what I'm understanding is those who are opposed to it have decided that they'll try to use this venue as a way of trying to stop the development from going forward. I read a few of the letters, and they talked about their concerns about the development. That's where we're at.

**Mr. Jeffrey Shankman:** Mr. Craitor, you are absolutely correct.

**Mr. Kim Craitor:** Okay.

**Mr. Jeffrey Shankman:** It's a nine-year process, just about. The IDA has been there every step of the way, and they've participated in every public forum. It's been approved, as I mentioned before, by the town, the county and the province of Ontario—several ministries of the province in fact.

We're here today asking you for a governance model. We're not here for planning principles.

**Mr. Kim Craitor:** I have just one last question to the staff. I haven't seen this before, but this is not new. We've had this kind of request before. By approving this, are we approving something that's never existed before?

*Interjection.*

**The Chair (Mr. Michael Prue):** The question is to staff. This is the first time I've ever seen it in my years on this committee.

**Ms. Susan Klein:** There were a couple of acts that this was modelled on that were passed. I have them here: Blue Mountain—

**Mr. Robert Comish:** I mentioned them before, the Blue Mountain Village Association Act and the Red Leaves Resort Association Act.

**Ms. Susan Klein:** Yes. Blue Mountain was 1999. Red Leaves was 2006. There are slight variations, but they're very similar.

**Mr. Kim Craitor:** So, we're being asked to approve something that has been approved previously a little bit different than this one? I'm just trying to get it clear. We have the authority to approve this. We're approving something that you've come before us with and have inside of it what you would like. It would haven't have



come here if it was inappropriate. That's the bottom line. Do you have to accept—

**Ms. Susan Klein:** If I had thought it was inappropriate for private legislation, it would not have come here.

**Mr. Kim Craitor:** Okay. That's it. Thank you.

**The Chair (Mr. Michael Prue):** Mr. Miller.

**Mr. Paul Miller:** It sounds like an exciting project—certainly beneficial to the coffers of the province, the town and everyone else involved.

I've got some concerns. Is this project in any way, shape or form a time-share facility? Is it tied into companies like RCI and things like that?

**Mr. Jeffrey Shankman:** It is not planned to be a time-share facility.

**Mr. Paul Miller:** That wasn't my question. It's not planned to be—

**Mr. Jeffrey Shankman:** Sorry, I mean the developer's plan. I didn't mean the official plan. The developer does not plan for this to be a time-share facility. It's going to be individual ownership.

**Mr. Paul Miller:** Can that change during the process to a time-share facility?

**Mr. Jeffrey Shankman:** It's not the developer's intention to change that whatsoever. So, if you're asking me—

**Mr. Paul Miller:** I'm not sure I'm getting an answer here.

**Mr. Jeffrey Shankman:** Well, I'm going to answer you on both levels. The developer does not intend for this to be a time-share facility—

**Mr. Paul Miller:** At this time.

**Mr. Jeffrey Shankman:** Ever. It'll be marketed and sold—

**Mr. Paul Miller:** Okay. That's good. Question two—

**Mr. Robert Comish:** Can I just also add to that? My understanding is that one of the conditions of approval that was worked out with the town is that all of the real estate units are going to have to be condominium units. I think that's firm.

**Mr. Paul Miller:** That helps. They can also do time-share in condominiums, too.

I read here in the submissions about the lawsuits. It appears that the number, \$100 million in what they call "strategic lawsuits against public participation"—what is the status of that \$100 million? Who sued whom?

**Mr. Jeffrey Shankman:** Well, I'm happy to address that. I have detailed personal knowledge of each and every action that's in any way, shape or form connected with this project. I can assure you, sir, Mr. Chairman and the rest of the panel, that there are no lawsuits with any of these public bodies. Every last one of them has been resolved. There are two outstanding lawsuits: one where we're being sued and we're suing a local Barrie law firm, and—sorry. I wish to rephrase that: not the firm; several lawyers individually in a firm for inappropriate actions, and that's on the public record. But they were not objectors. They were not participants. They were not ratepayers, and they have sued us as well.

We have one action with an adjoining landowner who was a participant at the Ontario Municipal Board. The name of the company is Nextnine, and that's a land dispute. They're claiming a right of way over our property. That's been before the Ontario Superior Court of Justice. There's been a ruling and a decision in our favour that there is no such right of way. That entity has chosen to appeal. But that has nothing to do with objecting to the resort; it's a land dispute.

I can assure you that any other actions that anybody would have referred to as a SLAPP action have been resolved to the knowledge of the Donnelly law firm.

**Mr. Paul Miller:** Okay, next question: Why does the town of Innisfil have a representative on the board if the person cannot vote? What's the purpose of that?

**Mr. Jeffrey Shankman:** I think I can address it, and then Mr. Joblin can address it also.

The town of Innisfil wants to observe and note what's going on with the resort association. It does not want to incur any responsibility or liability. As a director of an entity such as this, there is a prospect of being held accountable for your actions. The town does not intend to be held accountable for doing anything at the resort association itself, but it does want to observe.

**Mr. Paul Miller:** So it's basically just a plant to see what's going on kind of thing?

**Mr. Jeffrey Shankman:** In a nice way, a plant. An invited plant.

**Mr. Paul Miller:** Okay, just wondering.

**Mr. Robert Comish:** I'd like to add to that. The concept of allowing a director representative from the town on the board is included in both of the other resort associations as well. The underlying thought is to create a liaison between what's going on at the resort and what's going on at the town, because the resort actually ends up operating very much like a small mini-municipality. There's a lot of interest in what's going on between the two municipalities, and this is the bridge that keeps the communications open the entire time.

**Mr. Paul Miller:** How many—asking the town of Innisfil representative—public meetings did you have, actual public meetings other than council meetings in the areas affected? How many public meetings did you have with different opponents and things like that?

**Mr. J. Mark Joblin:** With respect to this legislation?

**Mr. Paul Miller:** With respect to this project.

**Mr. Jeffrey Shankman:** Sorry; the whole project, he said.

**Mr. J. Mark Joblin:** Oh, with respect to the whole project. I don't have that information before me, but there was extensive public consultation with—there were some design charettes as well as—

**Mr. Paul Miller:** Hosted by you?

**Mr. Jeffrey Shankman:** No. These are town—these are public meetings. Some of them are information sessions, but you asked for public meetings.

**Mr. Paul Miller:** Okay.

**Mr. Jeffrey Shankman:** Over the nine years I would guess that it was a dozen or more.



**Mr. Paul Miller:** Okay. My last question. I'm a little concerned about this section 4. The special act enables the association to lien the property of any member who defaults on his fee obligations. I'd like you to expand on that. What do you mean by fee obligations? Do you mean his condominium fees for the year, or the cost of the property? Are they locked in to pay for the whole property if someone passed away? What's the story on that?

**Mr. Robert Comish:** I'd be happy to answer that. First of all, each building structure is a condominium, so there would be a condominium fee that's paid to operate and manage the condominium building. What we're talking about here are resort association fees, so the resort association itself, each of the homeowners and each of the business operators is a member. They pay a fee to the resort association that reflects their economic interest in the resort. That fee then goes into the general revenue, which in turn is used to support all of the resort activities that are undertaken by the resort association. The—

**Mr. Paul Miller:** I don't want to interrupt, but what I'm saying is, if I was an individual condominium owner in your resort and I pay, I don't know, whatever, \$1,100 a year for condominium fees—is that what you're talking about? If I don't pay it, you go after me?

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**Mr. Robert Comish:** No, because we have no right to interfere with the obligations that you may have with the condominium corporation. The association only has a legal obligation, and a legal right, with regard to fees that are owed to it. The fees—

**Mr. Paul Miller:** Is that part of my condo fee—

**Mr. Robert Comish:** No, it's not. It's a totally separate fee, because you're a member of a separate organization. We require a lien right, just as a condominium corporation has a lien right—

**Mr. Paul Miller:** This isn't spelled out very well. This should be spelled out a lot better than it is. There's too much of a grey area here. I don't like this particular part. You should make it quite clear in your contracts to the people who buy the condos or people who are going to be involved in the association—to stipulate the difference between their responsibilities to your association or to the Condominium Act. This is very, very grey, and I'm not too thrilled about it.

**Mr. Robert Comish:** The disclosure documents that are given to each purchaser prior to them signing a purchase and sale agreement will contain copies of the condominium documents themselves plus copies of the association documents. Plus, there'll be an overall description of their rights and obligations vis-à-vis the condominium corporation and the resort association. So this will be very, very carefully addressed.

**Mr. Paul Miller:** Not in fine print, I hope.

**Mr. Robert Comish:** No, it has to be in readily understandable language.

**Mr. Jeffrey Shankman:** If I may assist you as well, Mr. Miller, the wording we've used is not entirely dis-

similar to the wording used in the Condominium Act for enforcing lien rights.

**Mr. Paul Miller:** That's not exactly perfect either.

**Mr. Jeffrey Shankman:** Well, that's a fair comment by you. But we're following a procedure and process that's already established within the province of Ontario. We're not trying to reinvent the wheel. Our friends at the town took a great deal of comfort in the fact that the association had some teeth in the legislation, had the ability to carry on and had the ability to collect monies that were properly due and owing to it.

As my colleague said, disclosure statements will make reference, in the sales and marketing brochures and materials—under the Condominium Act, they will make full and frank disclosure and there will be disclosure about the association and what it stands for—

**Mr. Paul Miller:** How about taxes? I don't see the word "taxes" in there.

**Mr. Jeffrey Shankman:** We're not a taxing authority.

**Mr. Paul Miller:** No, but it's part of your condo fees.

**Mr. Robert Comish:** We're not a condominium. This is a—

**Mr. Paul Miller:** This is the problem I'm having. You're an association, a condo—I'm not quite sure what's going on.

**Mr. Robert Comish:** There are two separate organizations within every destination resort. There's the condominium corporation, which you would be a member of by virtue of owning a condominium unit. In addition, you are a member of the resort association, which has a totally different function. It has nothing to do with your building.

**Mr. Paul Miller:** Am I paying two fees here?

**Mr. Robert Comish:** You are. Two separate fees.

**Mr. Paul Miller:** You were smiling. I am paying two fees. I'm paying the condo fee, and I'm paying to the association too. So it's costing me double bubble.

**Mr. Robert Comish:** Not at all. You're getting benefits from both organizations. One is to service the condominium building. The other is to manage and maintain the resort and to operate the resort as a destination resort. They're totally different functions.

**Mr. Jeffrey Shankman:** You might want to think of it this way, Mr. Miller: A condominium building can only own the condominium's assets, and that means the grounds in front of the condominium that are part of its legal description—

**Mr. Paul Miller:** I'm aware of that.

**Mr. Jeffrey Shankman:** Well, if you're aware of that, then you know where the money is going when you pay your condominium fees.

As I've told you, this resort association encompasses much more than one condominium building and includes many, many more amenities. It will be responsible for owning, maintaining, repairing its own separate amenities and its own separate properties.

**Mr. Paul Miller:** So what you're saying is, I'm a member in a club.

**Mr. Jeffrey Shankman:** Yes, exactly, and—



**Mr. Paul Miller:** What if I choose not to be?

**Mr. Jeffrey Shankman:** That's why this legislation is here. We and the town do not want anybody who owns an interest in the resort to not be a member—

**Mr. Paul Miller:** That's what I was getting to. Really, if you're going to apply to be a member of this association or this board, and you want to live in that community—if I choose to go in there and I'm 80 years old, and I just want to live in a condo because I like the ambience, I like the resort, I like the town, I like where I am, I still have to pay your association.

**Mr. Jeffrey Shankman:** Sir, you do that because, as you said, you choose to be there, and you choose to be there for the amenities, we hope, and not just because—

**Mr. Paul Miller:** Okay, thank you.

**Mr. Jeffrey Shankman:** Thank you.

**The Chair (Mr. Michael Prue):** Okay. I don't want us to get too far—I've allowed this because the speaker started. I was trying to determine whether there was any appetite in the committee by asking questions on whether or not we should adjourn to another day in order to allow deputations. Before I invite further questions, I also have two other things to do. So, is there any appetite from the committee to adjourn to another date?

**Mr. Gerry Martiniuk:** I had a question.

**The Chair (Mr. Michael Prue):** Questions on that?

**Mr. Gerry Martiniuk:** Based on that, yes. That's why I raised my hand: because I wanted to ask a question.

**The Chair (Mr. Michael Prue):** And Mr. Leal has questions based on that? Your questions are based on the adjournment or the possibility of an adjournment.

**Mr. Jeff Leal:** Yes.

**Mr. Gerry Martiniuk:** Yes.

**The Chair (Mr. Michael Prue):** Okay, please.

*Interjection.*

**The Chair (Mr. Michael Prue):** Mr. Leal and then Mr. Martiniuk on the adjournment.

**Mr. Gerry Martiniuk:** One of the letters we've received is from Donnelly Law, and it's dated October 5, 2010. It was read by the young lady. Could you tell me what it means when he says it's "privileged and confidential"? Does that mean we, as a committee, cannot use this letter or the contents thereof?

**Ms. Leemor Valin:** I think my best answer to that is that we put together this letter late yesterday and not everything on it might be exactly perfect, so I would just say that that's part of our standard letterhead. We were rushing to prepare these letters. I don't think that that's necessarily what it would usually mean.

**Mr. Gerry Martiniuk:** Are you telling this committee that there could be some matters stated in this letter that are incorrect?

**Ms. Leemor Valin:** No, I don't believe that's what I'm saying.

**Mr. Gerry Martiniuk:** Well, what did you say?

**Ms. Leemor Valin:** Sorry. Can you repeat the initial question?

**Mr. Gerry Martiniuk:** Very simply, I don't know what "privileged and confidential" is. Does this mean that this communication cannot be used by this committee in any manner? If so, of course, then it shouldn't be before this committee. So I'm asking you what "privileged and confidential" means.

**Ms. Leemor Valin:** What I'm saying is that this "privileged and confidential" heading—we put together the letter late last night, and we weren't careful to see if maybe we should be putting on the letterhead today for today's purposes specifically. So I think that the content of the letter was meant to be used by the committee; it should be used by the committee. That's the best I can answer your question with. I'm sorry.

**Mr. Gerry Martiniuk:** That's not a sufficient answer, but in any event.

I have a question for Mr. Comish, please. I've read each of the letters. Now, just to make sure that I've read them all, Miss Mary P. Borthwick is one of them, and that deals with zoning. There's one from Roger Parkinson, I believe, and that again deals with zoning and the use of the property, which is not relevant to the bill before us. The third one is from Don Avery, and that again deals with the marina and the use of the property, which is not relevant.

However, there is a letter from one Tim Crooks; the address is 106 Summerhill Avenue, Toronto, Ontario. In the body of that letter, there is a reference to the possibility that the lands affected by the bill are not owned by the applicant. This person does not state that they are a solicitor or have expertise in title searching. However, they said they've looked at title, and they are concerned that possibly there's a portion of the lands in this application that, in fact, are not owned by the applicant, and I'd like you to answer that.

**Mr. Robert Comish:** I'll ask my colleague who is responsible for the real estate aspects of this development to respond.

**Mr. Jeffrey Shankman:** I have personal and detailed knowledge as to all of the ownerships of all of the lands comprising the resort. I can assure you, Mr. Chairman, committee members and Mr. Martiniuk, that the correct legal description was vetted and was contained in the act.

**Mr. Gerry Martiniuk:** On the basis of the answers I've received, Mr. Chair, I can see no reason to delay this application, and I'm willing to vote on it today.

**The Chair (Mr. Michael Prue):** Well, if we get that far, okay. Mr. Leal and then Mr. Ruprecht.

**Mr. Jeff Leal:** This particular issue I guess has been around for a decade, and there would have been a public approval process. I just jotted down here there would originally have been a planning application that would have been put forward.

There probably was a companion official plan amendment required for it. There would have been a zoning bylaw, probably, to accompany it; perhaps a committee of adjustments application for some minor details. I was a former municipal councillor, so I'm just going through the public process.



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Ultimately, it would have been approved by the council of the town of Innisfil and then ultimately, it went to the OMB. So there was a significant public process over that decade and, for that reason, I don't believe there's any reason to delay it.

I just have a quick question. We, of course, approved the Lake Simcoe Protection Act a little while ago. In terms of a water and waste water treatment plant, is there a stand-alone unit to cover this? Because there was a question of nutrient and phosphate—

**The Chair (Mr. Michael Prue):** If I could, Mr. Leal, I still have other things to do before I get into the body—

**Mr. Jeff Leal:** Sorry, okay. Thank you, Mr. Chair.

**The Chair (Mr. Michael Prue):** This is just on the adjournment.

**Mr. Jeff Leal:** Okay. I've provided my comments on that.

**The Chair (Mr. Michael Prue):** Mr. Ruprecht, do you have any questions related to whether or not we should adjourn?

**Mr. Tony Ruprecht:** Yes, I do. I have two questions for Ms. Leemor Valin. One is, are you representing the law firm of Donnelly only here today or are you also representing another organization or some residents? That's the first question; I have one more.

**Ms. Leemor Valin:** I believe that I'm here representing Donnelly Law. This was a letter sent from our office. However, we are saying that the client we represent and the other public that we've been in touch with do have concerns and would like to speak to this bill, such as issues relating to the Lake Simcoe Protection Act and other issues that will not be able to be spoken to unless someone is here to answer those questions. Right now, you're only getting one answer.

**Mr. Tony Ruprecht:** So that leads me to my second question, which you partially answered, and that was, you are, then, aware of other interested parties who wish to make deputations?

**Ms. Leemor Valin:** Yes, we are.

**Mr. Tony Ruprecht:** How many of these parties are there and which of these parties are you aware of who want to come to make a deputation?

**Ms. Leemor Valin:** The only parties I personally am aware of are the ones who have sent letters and have provided you with letters today.

**Mr. Tony Ruprecht:** How many are there?

**Ms. Leemor Valin:** I believe there are five letters in total.

**Mr. Tony Ruprecht:** So there are five different parties that have either objections or want to make presentations, is that right?

**Ms. Leemor Valin:** I don't know if each individual person with a letter is going to make—I'm not sure. My information is I know that these people provided letters and there are different parties who would like to make submissions. I don't know how many there will be exactly.

**Mr. Tony Ruprecht:** Thank you, Ms. Valin. That's my questioning.

**The Chair (Mr. Michael Prue):** Any other questions related to a possible adjournment? Is there any motion to adjourn this to another date?

**Mr. Paul Miller:** I'll move that motion.

**The Chair (Mr. Michael Prue):** We have a motion to adjourn to allow further deputations on another date. Any discussion on the motion? No discussion. All those in favour of the motion? Opposed? That is defeated. So we will proceed today.

I have Mr. Leal to ask questions on the—

**Mr. Jeff Leal:** Thank you so much. Because of the bill we have, the Lake Simcoe protection plan, one of the issues that was raised was the nutrient and phosphate loading in Lake Simcoe. Is it the intent to have a stand-alone water/waste water treatment plant to serve this? I take it, through the planning process, it was determined there was enough capacity to handle those two functions?

**Mr. Jeffrey Shankman:** Yes, sir. Through the planning process it's been determined that the municipal water plant has the capacity and has the capability of expansion. This resort will be serviced by town water and town sewage, and we're meeting or exceeding all of the requirements of the act.

**Mr. Jeff Leal:** That's very reassuring. Thank you so much.

**The Chair (Mr. Michael Prue):** Questions of the deputants? Wait a minute, sorry. I've gone too far again, already. There was one thing I had to do first. Excuse me. I have to ask the parliamentary assistant if there are any comments from the government.

**Mr. Lou Rinaldi:** No comments, Mr. Chair.

**The Chair (Mr. Michael Prue):** Okay. That's pretty simple. Then back to questions. Anybody have additional questions? Mr. Craitor.

**Mr. Kim Craitor:** For me, as I said, I do understand what's going on. It's simply that you're trying to find another way of blocking the development and this is an opportunity, because you're coming here, those who are opposed to it are trying to come in—and I know what they'll present. They won't deal with the bill; they'll deal with why it's not a good development. I understand that's what will happen when they come in.

I'm just trying to get this clear in my mind about this bill. That's all I want to get clear.

My colleague Paul asked a good question. If we approve this—for example, there was the question that you asked about the fees. Does that mean that we, by approving this, get pulled into enforcing anything? Are there are obligations by Parliament, because we've passed this and we've given jurisdiction to the bay association to be able to do all of these things that are in this bill? Do we take some responsibility—if someone's not adhering to it, do they then say, "Well, it was the Parliament of Ontario that said you had to do it, so that's the reason it's going forward. You have to deal with the provincial government, because they approved it"? Is that what would be the end result of all of this? Is that too—



**Ms. Susan Klein:** I'm not sure how that works. The Legislature will enact the bill. There's the provision in the bill, section 13, that talks about the association fees being a debt to the association, and that if they fail to pay them, the association can put a lien on the property. There's interaction between the land titles system and registering liens on title, that sort of thing. There's that kind of an interface with government entity. But the private act doesn't put any obligations on the government to do anything.

**Mr. Jeffrey Shankman:** If I may address that as well, we have borrowed shamelessly from the condominium structure, and we have tried to align ourselves with the Condominium Act in terms of lien provisions, in terms of notification to people, in terms of fairness. So, again, we are not reinventing the wheel.

Neither the provincial government nor the Parliament gets involved in any lien rights, lien disputes, lien collections under the Condominium Act, and this should be the same experience. It's to self-govern an association and to ensure that people who have committed voluntarily and contractually to pay dues and fees on a regular basis do in fact pay them, and if they don't, they're collectible.

**Mr. Kim Craiton:** That's well said.

The last comment I'll make is that had the five letter writers come in and talked about their concerns about the bill—but when you read them, their concerns are about the development. They never said that there's something wrong with this bill or that it's not appropriate. That's the reason I keep reiterating: It seems that it's just a way of trying to—hopefully, if this doesn't go through, that may stop the development. I guess that's what they're hoping may happen.

To the solicitor—unless there's something I didn't see, because I read them all and I didn't see anything that talks about the bill, why it's not appropriate or why the legislation that's been proposed is not the right type of legislation.

**Ms. Leemor Valin:** Sure. I'm here in the place of David Donnelly. I wouldn't characterize it as being only objections towards the development. I think that if people got a chance to speak to the bill, they would be addressing the bill as well. That is the best of my understanding of it. I just want to clarify that, even though you've already had the motion.

**Mr. Robert Comish:** Mr. Chair, could I add a comment there?

**The Chair (Mr. Michael Prue):** Sure, go ahead.

**Mr. Robert Comish:** There is one letter that does actually raise a couple of issues with regard to the bill. It's the letter from Mr. Koch, and he—

**The Chair (Mr. Michael Prue):** No, no. Mr. Koch is the clerk.

**Mr. Robert Comish:** Sorry, I'm reading the wrong—it's Mr. Crooks.

**Interjection:** Just for the record.

**Mr. Robert Comish:** Yes; Mr. Koch is not sending a letter to himself. He's the addressee.

That letter makes reference to section 7, and points out correctly that an individual can apply to the association to become a member and have his land become part of the resort lands. That is in the act simply to allow for what might often happen with any resort development, where there's some land adjacent to the resort which, for whatever reason, it makes sense for the resort to expand somewhat to cover that land. Similarly, the statute—

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**Mr. Jeffrey Shankman:** Sorry, Bob. I'm sorry. I'm going to have to clarify. His land doesn't become resort land. It doesn't get rezoned. It doesn't get re-designated. As you mentioned earlier, an off-site spa wished to be a member of the association so that they could benefit from that relationship. It's meant for businesses outside the resort who want to join the association. It will have no impact on rezoning, no impact on the land use. It will not designate them as resort lands. I just wanted to make sure that the committee understands that.

**Mr. Robert Comish:** Unfortunately—

**Mr. Jeffrey Shankman:** It allows for the lien rights, perhaps.

**Mr. Robert Comish:** No, unfortunately, there are two different types. Mr. Shankman is correct in referring to businesspeople who operate businesses outside of resort lands to become members. What we're talking about here is the normal activity of a resort operation, where you want to be able to either slightly expand the resort or contract. There are provisions in there to allow the resort land to be expanded or contracted following the procedure that's set out in the act.

The idea behind both those sections is simply to enable a sensible expansion or contraction where it makes sense from a business perspective. There's nothing sinister about it and it's obviously on a totally voluntary basis. It's determined by the owner of the land and, of course, the resort association board whether they want to expand the resort and increase the size of the property.

The second point is that there's a reference in the last paragraph on the first page to the fact that the act contemplates the establishment of various classes of members. He's absolutely right. I would just point out that the Ontario Corporations Act and the Ontario Business Corporations Act contemplate class membership. It's a normal corporate function that is available for those kinds of corporations, and we're suggesting that it should also be for this special act corporation.

**The Chair (Mr. Michael Prue):** Further questions? Mr. Miller.

**Mr. Paul Miller:** Once again, I'd like to thank Mr. Craiton for pointing out one of my concerns. Some people were smiling, but there are some serious concerns.

Looking at "Registration of lien," "Notice to member," "Enforcement of lien," "Subsequent debts"—these all fall within this bill. I'm not sure that we're stepping over our authority. We're not a collection agency and we're not a bank. I'm wondering if this has been looked at by legislative counsel, what we're getting into here.



There are several areas: "Discharge of lien," "Subsequent debts," even the word "mortgage" is in there—"may be enforced in the same manner as a mortgage." I'm hoping we're not stepping out of our area of authority here. The banking act is federal, so I'm not quite sure why these things are included.

**Ms. Susan Klein:** I don't think we're overstepping anything. These are—

**Mr. Paul Miller:** I'm sorry; with all due respect, "Debt to association," is the first one, item 13(1): "If a member of the association"—that's the other bill you're paying—"who is an owner of resort land defaults in the payment of any fee owed by the member to the association;" that's considered a lien.

**Ms. Susan Klein:** Liens are—

**Mr. Gerry Martiniuk:** It's like a condo.

**Mr. Paul Miller:** Now, Gerry, we're talking about the association; we're not talking about condos. What we're talking about is the association, the other one we were talking about—the membership fee; right? That's part of it too; right?

**Mr. Jeffrey Shankman:** There are two separate and distinct concepts—

**Mr. Paul Miller:** I know that but the association—you can put a lien on somebody if they don't pay their association fees to the club too, is what you're saying.

**Mr. Jeffrey Shankman:** That is absolutely correct and was added at the request of the town of Innisfil through outside counsel who asked specifically for some remedy so that the town could be assured that the association could prevail, be self-sufficient and stand on its own. So you can imagine the concern that was raised, and it was. If nobody in your association pays you any fees and you, the association, have control of some assets that are of benefit to the whole community of the resort, how are you going to sustain yourself?

Outside counsel from a downtown law firm—who's an expert in condominium law, by the way, and assisted Mr. Joblin in reviewing our proposed draft bill—recommended to the town that we have a similar procedure to that which is entrenched in the Condominium Act. As I say, we borrowed shamelessly from it to satisfy what we thought was an observation and comment from the town that bore some looking into and had a resolution.

So you're quite correct, sir. The reason I smiled earlier was, I felt that you got the point, and I smiled at your knowledge that you got the point that we're talking about two separate and distinct entities, one being a condominium structure and one being an association or, as you say, a club. I like the word "club" because, as a member of your condominium unit, you're also going to be a member of a very special club that owns a lot of nice amenities.

**Mr. Paul Miller:** Thank you, and thank you for that shrouded compliment. But there are other people in this province who have been members of clubs, and if you've recently watched the papers, the health clubs have become a major problem in this province, collecting money they shouldn't collect for longer periods of time.

You have to take them to court to get your membership fee back. I'm just hoping that you have things in your association that will also protect the consumers from abuse from collection agencies and things like that, because we have a real problem in Ontario.

**Mr. Jeffrey Shankman:** I can assure you that we're entirely dissimilar to a health club or a fitness club. I can also assure you that not only did the town of Innisfil review the draft bill and approve of it but they've reviewed the bylaws of the association. They've had extensive comment on the bylaws, and the town and the county are satisfied with those as well.

**The Chair (Mr. Michael Prue):** I'm going to have to stop whatever questions are there. The bells are ringing. We are forced under the rules of the House to adjourn this meeting at this time. It will resume on our next hearing date, which is likely to be two weeks from today.

**Mr. David Caplan:** No, no, no. The House is sitting; we can meet.

**Mr. Gerry Martiniuk:** We can vote. I ask for a vote right now.

**The Chair (Mr. Michael Prue):** There are 19 votes to take place on this bill.

**Mr. David Caplan:** Well, let's go.

**Mr. Gerry Martiniuk:** Let's go.

**The Chair (Mr. Michael Prue):** Are there any further questions? No further questions. All right. I was trying to get everybody up in the House before it started, but there we go.

Shall schedule 1, as amended, carry? Carried.

Sorry. Excuse me. There's no amendment. I'll do it again.

**Mr. Paul Miller:** Can we have a recorded vote, please?

**The Chair (Mr. Michael Prue):** Yes. Recorded vote. Shall schedule 1 carry?

**Mr. David Caplan:** I heard you say, "Carried."

**The Chair (Mr. Michael Prue):** No, no. He has asked for a recorded vote.

#### Ayes

Caplan, Craitor, Leal, Martiniuk, Rinaldi.

#### Nays

Miller.

**The Chair (Mr. Michael Prue):** That carries.

Shall form 1 carry? That carries.

Shall form 2 carry? That carries.

**Mr. Paul Miller:** Are you not recording each one individually?

**The Chair (Mr. Michael Prue):** No, you have to ask for that. Do you want each one individually—

**Mr. Paul Miller:** Yes, I do. I thought I said that. Okay.

**The Chair (Mr. Michael Prue):** All right. I'll do that from this point on.

**Mr. Paul Miller:** All right.

**The Chair (Mr. Michael Prue):** Shall form 4 carry, on a recorded vote?

*Interjection.*

**The Chair (Mr. Michael Prue):** Oh, sorry. I missed 3. Excuse me.

**Mr. Paul Miller:** Can you give a title with that, Mr. Chairman? You're just saying, "Form 2," "Form 1." Can you give me a title, just a synopsis of what we're voting on? If we're going to do this and we want to get through it today, let's do it right.

**The Chair (Mr. Michael Prue):** It is a form within the bill. It's found on page 7 of the bill. Sorry. That was form 1. Form 2 is found on page 8. Form 3, the one we're dealing with now, is on page 9 of the bill.

**Mr. Paul Miller:** Page 9. "Notice of lien under subsection"—is that the one?

**The Chair (Mr. Michael Prue):** "Notice of lien under subsection 13(3) of the act" is the notice.

*Interjection.*

**The Chair (Mr. Michael Prue):** I'm being advised by the clerk that I must adjourn because question period—this is what is required by the House. This is why we are having the whole debate within one of the committees about members not being present in the House because of the budget. I have to adjourn. It will be adjourned, and I anticipate—

**Mr. David Caplan:** Under which standing order?

**The Clerk of the Committee (Mr. Katch Koch):** It was actually in the motion when the House created the committees.

**Mr. David Caplan:** That what?

**The Clerk of the Committee (Mr. Katch Koch):** The motion spelled out the times that the committees can meet and the days that the committees may meet.

**Mr. David Caplan:** Okay, and why does that prohibit us from—

**The Clerk of the Committee (Mr. Katch Koch):** Because the order of the House indicates that the Standing Committee on Regulations and Private Bills may meet on Wednesday mornings until 10:30.

**Mr. David Caplan:** It's not 10:30. It says 10:25.

**Ms. Marta Kennedy:** It says 10:25, yes.

**The Chair (Mr. Michael Prue):** In any event, I think I have the watch as the Chair. We will resume this on the next date, which I anticipate will be two weeks from today, October 20. We will resume at 9 o'clock in the morning, October 20, for the balance of the hearing.

This meeting stands adjourned for two weeks, and because of the lateness of the hour I guess the sub-committee has to be put over till then as well.

*The committee adjourned at 1025.*



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## Assemblée législative de l'Ontario

Deuxième session, 39<sup>e</sup> législature

# Official Report of Debates (Hansard)

Wednesday 20 October 2010

# Journal des débats (Hansard)

Mercredi 20 octobre 2010

**Standing Committee on  
Regulations and Private Bills**

**Comité permanent des  
règlements et des projets  
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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE  
ON REGULATIONS  
AND PRIVATE BILLS

Wednesday 20 October 2010

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES  
RÈGLEMENTS ET DES PROJETS DE LOI  
D'INTÉRÊT PRIVÉ

Mercredi 20 octobre 2010

*The committee met at 0901 in room 151.*BIG BAY RESORT  
ASSOCIATION ACT, 2010

Consideration of Bill Pr38, An Act respecting Big Bay Resort Association.

**The Chair (Mr. Michael Prue):** We'll call the meeting to order. Since there is at least one new member today who wasn't here last time, and potentially a second one if Mr. Murdoch appears, then—

**Mr. Gerry Martiniuk:** He will not.

**The Chair (Mr. Michael Prue):** He will not. Okay, then we have one new member.

We are resuming clause-by-clause consideration of Bill Pr38, An Act respecting Big Bay Resort Association. When the committee adjourned on October 6, 2010, we completed the vote on form 2 of the bill, which is found on page 8. There are a number of votes that have to be taken. We started with the schedules because a lot of the other sections refer to the schedules. We did schedule 1. We did form 1. We were on form 2 and it was completed and carried, and then we were about to do form 3 when we ran out of time. Everybody remember? That's where we're at.

I will proceed at this point—Ms. DiNovo?

**Ms. Cheri DiNovo:** Yes, Mr. Chair. I would like to move a motion. I understand that there are other people here who would like to depute to this bill and represent another point of view. I wonder if they could be allowed to do so, if they're willing to.

**The Chair (Mr. Michael Prue):** We have a motion. I understand that this will require unanimous consent to proceed. Without getting into a long debate, is there unanimous consent to allow further deputations?

**Mr. Lou Rinaldi:** No.

**The Chair (Mr. Michael Prue):** I heard a no. Then we will proceed as instructed.

We shall go to form 3. Is there any discussion on form 3? Seeing none, shall form 3 carry? Carried.

Form 4: Any discussion on form 4?

Ms. DiNovo, just for your edification, the forms are at the back of the bill. Form 4 is on the back.

Any discussion on form 4? Hearing none, shall form 4 carry? Carried.

We're going to revert back to section 1. We're going to go through the bill now section by section.

**Mr. Gerry Martiniuk:** Excuse me, Mr. Chair: Have we done the preamble?

**The Chair (Mr. Michael Prue):** No, the preamble comes after we've dealt with all the sections up to section 19. Then we go to the preamble, the title and the remainder.

We're going to deal with the sections, starting with number 1. Any discussion on section 1? Shall section 1 carry? Carried.

Section 2: Any discussion on section 2? Hearing none, shall section 2 carry? Carried.

Any discussion on section 3? Hearing none, shall section 3 carry? Carried.

On section 4: Discussion on section 4? Hearing none, shall section 4 carry? Carried.

**Ms. Cheri DiNovo:** Mr. Chair, are these votes going to be recorded, or can I—

**The Chair (Mr. Michael Prue):** Someone has to request a recorded vote.

**Ms. Cheri DiNovo:** Could I request that these be recorded?

**The Chair (Mr. Michael Prue):** You want the balance of them recorded?

**Ms. Cheri DiNovo:** Yes. Had I known, I would have requested it at the top of the discussion, but definitely from here on in.

**The Chair (Mr. Michael Prue):** From here on in. Okay, we have a request for recorded votes, so the balance shall be recorded.

Section 5: Is there any discussion on section 5? Seeing no discussion, all those in favour of section 5?

## Ayes

Caplan, Leal, Martiniuk, Rinaldi, Ruprecht.

## Nays

DiNovo.

**The Chair (Mr. Michael Prue):** Carried.

Section 6: Any discussion on section 6? Seeing no discussion, all those in favour?



**Ayes**

Caplan, Leal, Martiniuk, Rinaldi, Ruprecht.

**Nays**

DiNovo.

**The Chair (Mr. Michael Prue):** Carried.

Section 7: Any discussion on section 7? Seeing none, all those in favour?

**Ayes**

Caplan, Leal, Martiniuk, Rinaldi, Ruprecht.

**Nays**

DiNovo.

**The Chair (Mr. Michael Prue):** Carried.

On section 8: Is there any discussion on section 8? Seeing no discussion, all those in favour?

**Ayes**

Caplan, Leal, Martiniuk, Rinaldi, Ruprecht.

**Nays**

DiNovo.

**The Chair (Mr. Michael Prue):** Section 8 carries.

Section 9: Any discussion on section 9? Seeing no discussion, all those in favour?

**Ayes**

Caplan, Leal, Martiniuk, Rinaldi, Ruprecht.

**Nays**

DiNovo.

0910

**The Chair (Mr. Michael Prue):** Section 9 carries.

Section 10: Any discussion on section 10? Seeing no discussion, all those in favour?

**Ayes**

Caplan, Leal, Martiniuk, Rinaldi, Ruprecht.

**Nays**

DiNovo.

**The Chair (Mr. Michael Prue):** That carries.

Section 11: Any discussion on section 11? Seeing none, all those in favour?

**Ayes**

Caplan, Leal, Martiniuk, Rinaldi, Ruprecht.

**Nays**

DiNovo.

**The Chair (Mr. Michael Prue):** Section 11 carries.

Section 12: Any discussion on section 12? Seeing none, all those in favour?

**Ayes**

Caplan, Leal, Martiniuk, Rinaldi, Ruprecht.

**Nays**

DiNovo.

**The Chair (Mr. Michael Prue):** That carries.

Section 13: Any discussion? Seeing none, all those in favour?

**Ayes**

Caplan, Leal, Martiniuk, Rinaldi, Ruprecht.

**Nays**

DiNovo.

**The Chair (Mr. Michael Prue):** That carries.

Section 14: Any discussion? Seeing none, all those in favour?

**Ayes**

Caplan, Leal, Martiniuk, Rinaldi, Ruprecht.

**Nays**

DiNovo.

**The Chair (Mr. Michael Prue):** That carries.

Section 15: Any discussion? Seeing none, all those in favour?

**Ayes**

Caplan, Leal, Martiniuk, Rinaldi, Ruprecht.

**Nays**

DiNovo.

**The Chair (Mr. Michael Prue):** That carries.

Section 16: Any discussion? Seeing none, all those in favour?

**Ayes**

Caplan, Leal, Martiniuk, Rinaldi, Ruprecht.

**Nays**

DiNovo.

**The Chair (Mr. Michael Prue):** That carries.

Section 17: Any discussion? Seeing none, all those in favour?

**Ayes**

Caplan, Leal, Martiniuk, Rinaldi, Ruprecht.

**Nays**

DiNovo.

**The Chair (Mr. Michael Prue):** That carries.

Section 18: Any discussion? Seeing none, all those in favour?

**Ayes**

Caplan, Leal, Martiniuk, Rinaldi, Ruprecht.

**Nays**

DiNovo.

**The Chair (Mr. Michael Prue):** That carries.

Section 19: Any discussion? Seeing none, all those in favour?

**Ayes**

Caplan, Leal, Martiniuk, Rinaldi, Ruprecht.

**Nays**

DiNovo.

**The Chair (Mr. Michael Prue):** That carries.

We've dealt with the schedules and the forms, so we'll go to the preamble. Shall the preamble carry?

**Interjections:** Carried.

**The Chair (Mr. Michael Prue):** Sorry, I should have asked for discussion. I'll go back; excuse me. Any discussion on the preamble? Ms. DiNovo.

**Ms. Cheri DiNovo:** Yes, just generally, as this is the last part that we're voting on, I assume. The reason that we're objecting is, first of all, the lack of voice for the residents and environmental concerns that have not been addressed adequately. Those are the general reasons. Again, I would ask for a recorded vote for this as with the other sections.

**The Chair (Mr. Michael Prue):** Any other discussion? Okay, back to the preamble, again on a recorded vote. Shall the preamble carry?

**Interjections:** Carried.

**The Chair (Mr. Michael Prue):** No, I said on a recorded vote. All those in favour?

**The Clerk of the Committee (Mr. Katch Koch):** Mr. Caplan, Mr. Leal, Mr. Rinaldi—

**The Chair (Mr. Michael Prue):** Mr. Ruprecht, you have to be in your seat.

**Ms. Cheri DiNovo:** Sorry, excuse me, Mr. Chair, are we voting on—this should be a recorded vote, or are we actually voting?

**The Chair (Mr. Michael Prue):** No, no. You've requested a recorded vote, so it is a recorded vote.

**Ayes**

Caplan, Leal, Martiniuk, Rinaldi, Ruprecht.

**Nays**

DiNovo.

**The Chair (Mr. Michael Prue):** That carries.

The next one is the title. Any discussion on the title? No discussion on the title. All those in favour of the title?

**Ayes**

Caplan, Leal, Martiniuk, Rinaldi, Ruprecht.

**Nays**

DiNovo.

**The Chair (Mr. Michael Prue):** That carries.

The next item is asking if the bill should carry. Any discussion?

**Mr. David Caplan:** Carried.

**The Chair (Mr. Michael Prue):** Okay, we still have a request for a recorded vote. All those in favour of the bill carrying?

**Ayes**

Caplan, Leal, Martiniuk, Rinaldi, Ruprecht.

**Nays**

DiNovo.

**The Chair (Mr. Michael Prue):** Carried.

*Interjection.*

**The Chair (Mr. Michael Prue):** I don't think—I guess we can. We have to do it, but I don't think we can ask for a recorded vote. Well, I guess we can. Shall I report the bill to the House, again on a recorded vote?

**Ayes**

Caplan, Leal, Martiniuk, Rinaldi, Ruprecht.

**Nays**

DiNovo.

**The Chair (Mr. Michael Prue):** That carries. That would be the conclusion of the bill.  
*The committee adjourned at 0914.*









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## Legislative Assembly of Ontario

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## Assemblée législative de l'Ontario

Deuxième session, 39<sup>e</sup> législature

# Official Report of Debates (Hansard)

Wednesday 27 October 2010

# Journal des débats (Hansard)

Mercredi 27 octobre 2010

**Standing Committee on  
Regulations and Private Bills**

**Comité permanent des  
règlements et des projets  
de loi d'intérêt privé**



Chair: Michael Prue  
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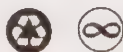
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## LEGISLATIVE ASSEMBLY OF ONTARIO

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE  
ON REGULATIONS  
AND PRIVATE BILLSCOMITÉ PERMANENT DES  
RÈGLEMENTS ET DES PROJETS DE LOI  
D'INTÉRÊT PRIVÉ

Wednesday 27 October 2010

Mercredi 27 octobre 2010

*The committee met at 0901 in room 151.*

## TONUM LTD. ACT, 2010

Consideration of Bill Pr41, An Act to revive Tonum Ltd.

**The Chair (Mr. Michael Prue):** We will call the meeting to order. We're here for the consideration of one bill: Bill Pr41, An Act to revive Tonum Ltd. The sponsor is MPP Peter Shurman, and I understand the applicant is Robert L. Jenkins. Is that correct?

**Mr. Robert Jenkins:** Yes.

**The Chair (Mr. Michael Prue):** Okay. Mr. Shurman, the floor is yours.

**Mr. Peter Shurman:** Thank you, Chair, and good morning, members of the committee. I'm here for only one purpose and that is to introduce Mr. Jenkins. Robert L. Jenkins is the solicitor for his client, Tonum Ltd., if it should be reactivated under this bill, Bill Pr41. Mr. Jenkins, you can address the committee.

**Mr. Robert Jenkins:** This is a straightforward matter in the sense that this corporation was active up until July 2008 when my client, Mr. Skourides, who's an architect, dissolved the corporation. What he forgot was that it was a plaintiff in a lawsuit. We came to a settlement in September 2008, which was embodied in a judgment in October 2009, and Mr. Skourides needs to enforce the judgment, which means the transfer of eight parcels of a condominium land corporation in Peterborough. Other than that, the corporation probably has no purpose, at this point anyway.

**The Chair (Mr. Michael Prue):** Any questions of the applicant? Mr. Miller.

**Mr. Paul Miller:** So the transfer of the properties was to settle the lien against the property?

**Mr. Robert Jenkins:** No. My client was an architect. He instituted the construction lien action, and as part of the settlement process, the owner of the land, who was the defendant, agreed to transfer eight lots in this development in Peterborough—

**Mr. Paul Miller:** To the architect.

**Mr. Robert Jenkins:** To the architect or his corporation.

**Mr. Paul Miller:** In lieu of payment?

**Mr. Robert Jenkins:** Yes, that's correct.

**The Chair (Mr. Michael Prue):** Any other questions? No other questions.

Are there any other interested parties to the matter? Seeing none, are the members ready to vote?

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry?

**Mr. Jeff Leal:** Absolutely.

**The Chair (Mr. Michael Prue):** Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed? Agreed.

**Mr. Paul Miller:** Mr. Chairman, sorry—

**The Chair (Mr. Michael Prue):** Go ahead.

**Mr. Paul Miller:** The member said "absolutely." Was that an extra?

**The Chair (Mr. Michael Prue):** No, I think he was just so enthused—

**Mr. Paul Miller:** So enthused that—okay, I just wanted to know.

*Interjection.*

**The Chair (Mr. Michael Prue):** The matter is concluded. Meeting adjourned.

*The committee adjourned at 0903.*



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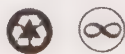
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D'INTÉRÊT PRIVÉ

Wednesday 3 November 2010

Mercredi 3 novembre 2010

*The committee met at 0902 in room 151.*SISTERS OF ST. JOSEPH  
OF PETERBOROUGH ACT  
(TAX RELIEF), 2010

Consideration of Bill Pr37, An Act respecting The Sisters of St. Joseph of the Diocese of Peterborough, in Ontario.

**The Chair (Mr. Michael Prue):** We'll call the meeting to order. We are here this morning with one bill, Bill Pr37, An Act respecting The Sisters of St. Joseph of the Diocese of Peterborough, in Ontario. The sponsor of the bill is Mr. Leal, and the applicant, who I understand is with him today, is Stephen P. Kylie, barrister and solicitor; is that correct?

**Mr. Stephen Kylie:** Good morning, Mr. Chair. That's right.

**The Chair (Mr. Michael Prue):** Okay. Mr. Leal, the floor is yours.

**Mr. Jeff Leal:** I'm delighted to be here with Stephen Kylie this morning, who has been the legal counsel for the Sisters of St. Joseph for many years.

The Sisters of St. Joseph have been in Peterborough for well over 100 years. My association goes back a long ways. They actually taught me in elementary school at St. John the Baptist in the south end of Peterborough, and then I had the pleasure of being on the St. Joseph's hospital board for a decade when I was a member of Peterborough city council.

As I said, I've had a long, long relationship with the Sisters of St. Joseph. The current Superior General, Sister Dorothy Ryan, is a good friend and was a great basketball star in her high school days in Peterborough, and is now doing an outstanding job as the leader and Superior General of the Sisters of St. Joseph.

As I said, Mr. Kylie has been their solicitor for a long time.

This is a fairly straightforward bill, I believe, at this time.

**The Chair (Mr. Michael Prue):** Thank you. Mr. Kylie, do you have any comments?

**Mr. Stephen Kylie:** Just some brief comments, because I think the material's pretty self-explanatory. Jeff has also spoken to it.

I've acted for the sisters as a solicitor for a long time, but I've also worked with them as a volunteer and in fact

sat on a board with Jeff for many years—a couple of boards actually. So I've worked with the sisters in Peterborough for probably close to 30 years, either as a lawyer or a volunteer.

Their previous mother house in Peterborough on Monaghan Road was a massive structure. It was quite old. They had acquired the property at four different stages. It was too large for them, and also in terms of maintenance it was becoming a bit of a pressure point for them. So they decided they wanted to downsize and build a new building with all the environmental criteria. They actually severed off a small part of the property they owned and they built a much smaller, state-of-the-art residence. It had the same uses that we had in the previous mother house. It was a residence. There was an infirmary, offices, a chapel and opportunities for outreach programs for the residents in the city and county of Peterborough.

That was a strategic directive that they wanted to follow after doing a lot of soul-searching on it. For 120 years in that original mother house, they had never been assessed for any realty tax or education tax. With the move into the new, much smaller building, with the same basic uses that they made of the original mother house, MPAC, for some reason, decided that we're going to have to revisit the sisters' situation.

To be honest, I don't know where that authority came from, but because it was a new building, they were going to have to revisit the assessment, and they decided that other than the chapel that was located in the new building, this was going to be a taxable property. It made no sense to the sisters because, again, for 120 years they had never paid any tax of any kind on their property here.

There is a precedent, Mr. Chair. The sisters in London went through—

**Mr. Jeff Leal:** I just made note of that, Steve.

**Mr. Stephen Kylie:** Jeff's already—he's on that, too.

So the precedent has already been established where MPAC has intervened, probably not appropriately. I think handling it with a private member's bill is a better strategy than trying to amend the Assessment Act by dealing with religious organizations.

The city of Peterborough is supportive of what we're doing, and that's in the material, I believe, as well. The city has passed a resolution that if this bill is passed by the Legislature, the city will pass the appropriate bylaw waiving any realty or education tax imposed on the sisters. So they're already supportive. They're ready to



do what they can do and will do when the Legislature gives them that authority.

I would like to just say in closing, thank you to the clerk and Ms. Klein for all their help in us getting to this point, as well as Jeff's office—a lot of tremendous support for the sisters and my office in terms of moving the bill forward. I would also—

**Mr. Paul Miller:** I'm not feeling well. Keep it up.

**Mr. Stephen Kylie:** Just great, great service. I also appreciate the deferral from the last time I was here. I was otherwise engaged with a board meeting as a result of a provincial appointment, something I didn't think I could miss. So I appreciate the deferral to today, Mr. Chair, and I'd be open for any questions.

0910

**The Chair (Mr. Michael Prue):** Before we get to that, are there any other interested parties who wish to speak to this? I see one gentleman here. You're not here to speak to this? Okay.

The parliamentary assistant is not here. Is there any comment from—Mr. Levac.

**Mr. Dave Levac:** Thanks for your presentation, Jeff and Stephen. Just a quick comment in support: I went through this with a private bill for the Sisters of St. Joseph in Hamilton, who have domain in the riding of Brant. Very similarly, what we found historically is that Sisters of St. Joseph, regrettably, is shrinking. I think my colleague across the way knows that in terms of the influence of the Sisters of St. Joseph in Hamilton, the size of the building and the property they once owned was huge. It shrunk; the membership shrunk and they just could not sustain and they did not have the same kind of influence on the numbers as they used to have. What we did is we basically went through the same exercise. They downsized, they modernized, and unfortunately, because of the change, once you change, MPAC's requirement is to re-evaluate and make the decision. We went through the same process and we found the private bill passed with all-party support.

I'm hoping the same thing can happen here. I really do respect and admire the Sisters of St. Joseph, wherever they land, for all the work they do. I too have somewhat of a history with the sisters that my friend and colleague Jeff Leal has indicated. I think this is actually a good way to do it, because it does provide us with an opportunity to make it quite clear that the work that they've done is never done for the profit-driven motive and it was always to give back to the communities. The sisters have always operated in a way to give, not to get.

This would crush them; there's no question about it. If you did a statistical analysis of this, if they had to pay the taxes on the entire property other than the chapel, it would crush them. They would not exist. I would not be the one who votes to have that removed, so you have my full endorsement and I'm sure the rest of ours here.

I thank the sisters for their work.

**The Chair (Mr. Michael Prue):** I take it that was the statement from the parliamentary assistant or his—

**Mr. Dave Levac:** Shall we say yes?

**The Chair (Mr. Michael Prue):** Okay. Then I will ask at this point, are there questions? I have a question first from Mr. Martiniuk, then from Mr. Miller and then from Mr. Ruprecht.

**Mr. Gerry Martiniuk:** I certainly support the bill, but I am curious—I would like you to explain to me why the judgment was made under the Assessment Act that these lands should not be exempt.

**Mr. Stephen Kylie:** Well, that's an MPAC decision. Looking at the strict interpretation of the legislation, it talks about premises being used for religious purposes. It seems to limit the exemption to just the place of worship.

We've done a little legal research on it. The courts have tried to kind of bend the rules there a little bit by recognizing that churches and religious communities do other things than just participate at a place of worship, but MPAC wasn't prepared to accept that ruling and they basically—I wouldn't say they backed us into a corner, but we had to appeal the assessment for this year just to make sure we were protected, because they weren't going to change the position.

It was an interpretation of the legislation, and that's what I mentioned at the outset. We could collectively—the sisters in all the communities—look at an amendment to the Assessment Act, but I'm not sure that would be the way to go. I think because the history has already been established, this is a better approach.

**Mr. Gerry Martiniuk:** And this act will act retroactively to solve the problem?

**Mr. Stephen Kylie:** Yes.

**Mr. Gerry Martiniuk:** Thank you.

**The Chair (Mr. Michael Prue):** Mr. Miller.

**Mr. Paul Miller:** I'd certainly concur with Mr. Levac's observations. We did this in Hamilton. It is a shrinking organization like anything else. The Legions, the Masonic Order and all kinds of organizations are certainly down in their membership. As long as we can keep this alive and going better, I think it's for the betterment of the children and the people in our communities, because they're a great organization and they certainly do a lot of good work in their communities.

I have no problem supporting this, but there's one hinge: I want Jeff Leal to go in the confession booth and apologize for abusing the NDP on a regular basis. If he could do that, I think I could swing this.

**Mr. Jeff Leal:** Mr. Miller, what I can do for you is that if this bill is passed today, I'll talk to the Mother Superior and—

**Mr. Paul Miller:** And say a prayer for us?

**Mr. Jeff Leal:** —and put you on the prayer list.

**Mr. Paul Miller:** Thank you.

**Mr. Jeff Leal:** Divine intervention is always helpful.

Just, if I might digress, it's interesting that the sisters in Peterborough had over an acre of property at one time that they used to farm, and they used to take all the produce from that and provide it to people who were less fortunate in the community. That went on for many, many decades, until they got to a point where they just didn't have the physical resources to keep that going. But

it was very unique in Peterborough that that went on for many decades. It was really a unique thing that they—

**Mr. Paul Miller:** And no chemicals in the food, too. That was good stuff.

**Mr. Jeff Leal:** And it was all blessed food.

**The Chair (Mr. Michael Prue):** Mr. Ruprecht?

**Mr. Tony Ruprecht:** It's just amazing what you find out when you attend the Standing Committee on Regulations and Private Bills. I had no idea that Mr. Leal had this very close association with the Sisters of St. Joseph.

**Mr. Dave Levac:** Now we know why he's—

**Mr. Tony Ruprecht:** Now we know why he's successful.

Let me just simply say for the record, notwithstanding the fact that there's going to be some prayers said for Paul from Hamilton—and I don't know if we should agree with that or not, but that's a side issue. But for the record, Mr. Chair, I want Mr. Kylie to know that Mr. Leal has already done all the homework and all the groundwork for you just before you arrived, so all the credit should go to him.

**Mr. Stephen Kylie:** I very much appreciate all of Jeff's efforts.

**The Chair (Mr. Michael Prue):** Okay, that is the end of questions.

Mr. Sousa, in your absence and as we went ahead, Mr. Levac gave the position of the government on your behalf. I trust you're satisfied with that and we can proceed.

**Mr. Charles Sousa:** I'm sure Mr. Levac would have stated exactly what our position was.

**Mr. Dave Levac:** I think I memorized your text.

**Mr. Charles Sousa:** Thank you so much.

**The Chair (Mr. Michael Prue):** There being no further questions, are the members ready to vote?

**Interjection:** Yes.

**The Chair (Mr. Michael Prue):** Mr. Leal, you'll have to take your seat if you wish to vote on this. I can't recognize you from there.

**Mr. Jeff Leal:** Thank you, Mr. Chair.

**Mr. Dave Levac:** Sensing a unanimous vote, can I ask for a recorded vote, please?

**The Chair (Mr. Michael Prue):** You want a recorded vote? There are many votes. A request for a recorded vote, so all votes will be recorded.

Shall section 1 carry?

**Ayes**

Leal, Levac, Martiniuk, Paul Miller, Ruprecht, Sousa.

**The Chair (Mr. Michael Prue):** Carried.  
Shall section 2 carry?

**Ayes**

Leal, Levac, Martiniuk, Paul Miller, Ruprecht, Sousa.

**The Chair (Mr. Michael Prue):** Carried.  
Shall section 3 carry?

**Ayes**

Leal, Levac, Martiniuk, Paul Miller, Ruprecht, Sousa.

**The Chair (Mr. Michael Prue):** Carried.  
Shall section 4 carry?

**Ayes**

Leal, Levac, Martiniuk, Paul Miller, Ruprecht, Sousa.

**The Chair (Mr. Michael Prue):** Carried.  
Shall section 5 carry?

**Ayes**

Leal, Levac, Martiniuk, Paul Miller, Ruprecht, Sousa.

**The Chair (Mr. Michael Prue):** Carried.  
Shall the preamble carry?

**Ayes**

Leal, Levac, Martiniuk, Paul Miller, Ruprecht, Sousa.

**The Chair (Mr. Michael Prue):** Carried.  
Shall the title carry?

**Ayes**

Leal, Levac, Martiniuk, Paul Miller, Ruprecht, Sousa.

**The Chair (Mr. Michael Prue):** Carried.  
Shall the bill carry?

**Ayes**

Leal, Levac, Martiniuk, Paul Miller, Ruprecht, Sousa.

**The Chair (Mr. Michael Prue):** Carried.  
Shall I report the bill, as amended, to the House? Yes, thank you.

I understand, Mr. Leal, you have a motion you wish to make at this point concerning the waiving of fees.

**Mr. Jeff Leal:** I do, Mr. Chair. I move that the committee recommend that the fees and actual cost of printing at all stages be remitted on Bill Pr37, An Act respecting The Sisters of St. Joseph of the Diocese of Peterborough, in Ontario.

**The Chair (Mr. Michael Prue):** We have a motion made by Mr. Leal. Is there any discussion? Seeing no discussion, all those in favour of the motion put forward by Mr. Leal?

*Interjection.*

**The Chair (Mr. Michael Prue):** It hasn't been requested recorded.

**Interjection:** No.

**The Chair (Mr. Michael Prue):** No? Okay. All those opposed? That's carried.

Thank you for attending.



**Mr. Stephen Kylie:** That's very generous, Mr. Chair. I appreciate that. Thank you for your time and the support of the committee. I'll relay that information back to the sisters. They'll be appreciative of the support they get.

**The Chair (Mr. Michael Prue):** All right. That is the only item for today, so the meeting is adjourned.

*The committee adjourned at 0917.*





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Rapport préliminaire  
sur les règlements

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STANDING COMMITTEE  
ON REGULATIONS  
AND PRIVATE BILLSCOMITÉ PERMANENT DES  
RÈGLEMENTS ET DES PROJETS DE LOI  
D'INTÉRÊT PRIVÉ

Wednesday 8 December 2010

Mercredi 8 décembre 2010

*The committee met at 0900 in room 151.*

## DRAFT REPORT ON REGULATIONS

**The Chair (Mr. Michael Prue):** I call the meeting to order. We have just one item on the agenda, and that is the report of the overview of the draft second report on regulations, 2010. Marta, the floor is yours.

**Ms. Marta Kennedy:** As you know, I'm Marta Kennedy. I work for the Legislative Research Service, and I also act as counsel to this committee. I'm here today to present the draft second report, 2010. It covers the regulations made in the second half of 2008 and all the regulations made in 2009.

I don't know if you'd like me just to start going through the report, beginning with an overview of the committee's role—

**Mr. Gerry Martiniuk:** I've heard the committee's role. I'd prefer just to hear the report.

**The Chair (Mr. Michael Prue):** Does anybody need to hear the committee's role? Any new members of the committee? Does everybody remember it?

**Mr. Rick Johnson:** I've never been here before.

**The Chair (Mr. Michael Prue):** You've never been here before. We'd better do it.

**Mr. Rick Johnson:** Just the Reader's Digest version.

**Ms. Marta Kennedy:** Okay. The Standing Committee on Regulations and Private Bills is required by section 33 of the Legislation Act and by standing order 108(i) to conduct a review of the regulations that are made under Ontario statutes. The purpose of this review is to ensure that the regulations that are made in Ontario are only those regulations that are authorized by statute.

As you know, unlike statutes, regulations are not made by the Legislature. The purpose of the regulations review is to provide oversight of the regulations and make sure only those regulations are made in accordance with the limits imposed by the Constitution, the statute and the standing orders.

We have nine guidelines that are in the standing orders which cover various things, but the principle underlying all of the guidelines is, was this regulation made in accordance with the limits imposed by the statute? This goes back to the purpose of regulations review, because regulations are delegated legislation; that is, they're laws like statutes, but they're delegated. The ability to make

these laws, these regulations, is given by the Legislature to someone else, like the minister or Lieutenant Governor in Council or something like that. This delegation is done in the regulation-making authority of the statute, where it says, "The Lieutenant Governor may make regulations governing highways," or something like that. Because the ability to make these regulations is given by the Legislature to someone else—as the source of the law-making power, the Legislature has the right to ensure that the power it has given to this other person or body is being used appropriately. That's the purpose of regulations review.

So, for the purpose of the regulations review, counsel to the committee act on behalf of the committee, reviewing the regulations on your behalf, and contact ministries if we think that there may be a problem with some of the regulations. They write back, and we discuss it with the ministries and then put together a draft report. That's what we have today.

**Mr. Rick Johnson:** Perfect.

**Ms. Marta Kennedy:** Okay. You should have two documents: One is the overview, a short document, and the other is the actual draft report.

The draft report is divided into four parts: statistics at the beginning; regulations reported; a new section, which is an update on regulations that were included in the first report that we did back in March; and then appendices at the end, which is information about the number of regulations that various ministries have filed.

I'll just start with the statistics part, and I won't really go through it unless someone has any questions about it. I just wanted to point out to Mr. Martiniuk that he had asked a question last time about new regulations made under statutes. There's a new chart on page 6 of the draft report that shows the new regulations made in 2009 under statutes with no previous regulations.

**Mr. Tony Ruprecht:** I have a question, Mr. Chair—

**The Chair (Mr. Michael Prue):** A question, Mr. Ruprecht.

**Mr. Tony Ruprecht:** I'm going back to the overview, if that's okay with you. Can we switch over to the overview of the draft second report on regulations?

**Ms. Marta Kennedy:** Yes.

**Mr. Tony Ruprecht:** Why does the report cover the regulations filed between July 1, 2008, and December 2008 and all regulations filed in 2009? Why is this not up to date?



**Ms. Marta Kennedy:** Well, back in March—I think it was in March—we did the first half of regulations for 2008, which were the January to June regulations. That report was prepared and ready to go in the fall of 2009, I guess, but for a number of reasons it wasn't possible for the committee to look at it. So we did the first half of 2008 in March of this year. This report covers up to the end of 2009. We haven't done 2010—2010 is not included in this report. We're working on 2010. The 2010 regulations are still being made and still being filed, and they will be until the end of December.

I guess one of the reasons why we are behind, in the sense that we're not presenting, for example, the first half of 2010 to you, is that other things happen in legislative research and we have other responsibilities besides these regulations.

**Mr. Tony Ruprecht:** Okay. My second question is this: On various occasions over the years, Mr. Martiniuk and I think lately Mr. Miller—and prior to that probably Mr. Prue, if my memory serves me correctly—have raised some issues that may be beyond the purview of what you're trying to accomplish, but I'm interested in them and maybe they should be part of the regulations; that is, on various occasions, we have the public appear here, and then what happens, essentially, is that there's simply a quick vote and they're gone again and it has been approved, yet they come from a very far distance. They come from northern Ontario, they come from Windsor, just to be here for one quick vote. I'm wondering, while you're making this presentation, whether this is part of the review or whether this is outside of what you're trying to accomplish this morning.

And one more point while you're thinking about this: The Conservative Party—Mr. Prue, you'll remember this, I think—had a—what was it?

**Mr. Jeff Leal:** Red Tape Commission.

**Mr. Tony Ruprecht:** Red Tape Commission that was looking at that. They made a number of recommendations and then we're back to square one; namely, the same process still takes place.

**Ms. Marta Kennedy:** I think the first thing you were talking about is private bills, the revival of companies. I think that's what you were talking about, Mr. Ruprecht, where members of the public have come in as witnesses? I think that's probably what you were talking about. I believe Mr. Prue has some information about ministries.

**The Chair (Mr. Michael Prue):** Oh, yes. I thought all members got a copy of that, or did they not? There was a letter sent by Mr. Takhar stating that the ministry is looking into ways that companies can be revived without having to come before this committee.

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**Mr. Tony Ruprecht:** I didn't see that letter. Did you, Paul?

**The Chair (Mr. Michael Prue):** This was some months ago, but nothing has transpired since. We asked, because we sent it off. It came back, but it just said that they were looking into ways. We've heard nothing since.

**Mr. Tony Ruprecht:** Do you need a motion, then? What do you need to follow this up, since I don't remember getting that?

**The Chair (Mr. Michael Prue):** I don't want this to be confused. One half of what we do is private bills. The other half of what we do is what we're doing today, which is looking at the regulations. I don't believe we've ever had a deputant on the regulations, other than ministry staff who do come in to tell us about the regulations and why we ought not to rebut them and change them.

**Mr. Tony Ruprecht:** I will, of course, not insist on this discussion, but it may be a good idea to get back on this in the future, like the next few times we meet, to follow this up. I don't know what you need to—

**The Chair (Mr. Michael Prue):** Okay, but I don't know that that's what we're here for today. Today, we only have the regulations.

**Mr. Tony Ruprecht:** All right.

**The Chair (Mr. Michael Prue):** When and if a decision is made by the government on any changes they want to make to this committee or the authorities that we have on private bills, I'm sure there will be a significant debate at that point.

**Mr. Tony Ruprecht:** Mr. Chair, I understand, and I apologize ahead of time, but I think that what I would like, as a member of this committee for some time, for you to do as Chair is to follow this up as well.

The letter from Mr. Takhar may be filed. It may be forgotten. Who knows what will happen? It just may be a good idea to tweak their response.

I came here this morning, and I think that while we're talking about this half of the regulations—

**The Chair (Mr. Michael Prue):** If you want to make a motion, I think it's a good one. If you make a motion that the clerk, on behalf of the committee, send a follow-up to the minister and ask if there has been any development in their study on private bills, that's probably a good thing to do. Will you make that motion?

**Mr. Tony Ruprecht:** Yes, I'm prepared to make that motion.

**Mr. Gerry Martiniuk:** Excuse me. Tony, I would suggest that maybe we would ask, not the minister but the deputy minister—to invite him to the committee to discuss that matter. It won't happen till March.

**Mr. Tony Ruprecht:** I'm not prepared to do that, Mr. Martiniuk, at this stage of the game—

**Mr. Gerry Martiniuk:** No? Because all it will get us is another letter saying that it's under consideration. That's all I'm thinking of.

**Mr. Tony Ruprecht:** I don't want this to be a big discussion or whatever. I just want them to follow up on the letter at this stage.

**Mr. Gerry Martiniuk:** Okay.

**Mr. Tony Ruprecht:** We can continue with that later on, as the Chair says. We can invite other deputants to discuss this and have a full discussion on it. But at this stage of the game, I would just be prepared to ask for a follow-up on that letter. That would be my motion, Mr. Chair.



**The Chair (Mr. Michael Prue):** Okay. Any discussion on the motion? Mr. Leal.

**Mr. Jeff Leal:** I just happen to think that Mr. Martiniuk is probably correct here. If we're looking at a way—and I don't want to get away from all the other business we're discussing. These numbers of companies that lapse and get revived—it's a pretty common process. Setting aside the government of the day, the deputy minister would probably be coming up with the process to allow that to happen on a continuous basis without coming back here. I, for one, would be interested to hear from that individual how that might occur without continually coming back and going through this process for what is a pretty standard procedure to revive a number of these—but I don't want to prolong the debate today if there's a—

**The Chair (Mr. Michael Prue):** Mr. Miller.

**Mr. Paul Miller:** I think I'm the one who started this ball rolling, so basically I agree that there should be some kind of a response from the ministry so that we know the status of what they're doing and whether they're looking into it. Report back to this committee so that we have some timelines on if there's going to be any progress or not. At this point, just an inquiry would be good.

I agree with Mr. Martiniuk and Mr. Leal that we might invite somebody from the ministry to come and say what's going on, where we are and if this is going ahead or not.

**The Chair (Mr. Michael Prue):** Okay. So we have a motion. Is that all covered and understood by the clerk? You're going to draft the letter, so it is all understood?

**Mr. Gerry Martiniuk:** What does the motion say?

**Mr. Tony Ruprecht:** What does the motion say? It's a follow-up on the previous letter by Mr. Takhar.

**The Chair (Mr. Michael Prue):** Yes, it's a follow-up from Minister Takhar on what the ministry is intending to do on the revival of companies—

**Mr. Gerry Martiniuk:** Okay. Can I move an amendment to that motion?

**The Chair (Mr. Michael Prue):** Sure.

**Mr. Gerry Martiniuk:** The amendment would be that in the letter to the minister we invite a representative from the ministry to come to the committee and report on progress in regard to the inquiry.

**The Chair (Mr. Michael Prue):** We have an amendment to the motion. Any discussion of the amendment?

We're ready to vote on the amendment. All those in favour? Opposed? That's carried.

On the main motion, as amended, all those in favour?

**Mr. Tony Ruprecht:** Mr. Chair, can we go back and have a recorded vote on that amendment?

**Mr. Gerry Martiniuk:** It's too late now.

**The Chair (Mr. Michael Prue):** The vote is taken.

**Mr. Tony Ruprecht:** Well, excuse me; you were just going too fast.

**The Chair (Mr. Michael Prue):** I asked for discussion, Mr. Ruprecht. I did ask for discussion, and I'm seeing a lot of heads shaking. I mean, that's the process. The vote has been taken.

On the main motion, as amended, all those in favour? Opposed? That's carried.

So we will inquire of the ministry, and we will invite someone to a subsequent meeting to find out what's happening.

Now that that's taken care of, let's go back to the regulations that brought us here. Any questions before we start going page by page?

**Mr. Paul Miller:** Just one question: You mentioned that you were behind for whatever other work-related things. Is it because of lack of personnel or lack of time or is not enough attention given to this? What's the reason for the delays?

**Ms. Marta Kennedy:** Probably the main reason for the delays is, in a sense, not enough personnel, I guess. Things that are urgent take priority over things that are not urgent.

**Mr. Paul Miller:** You mean we're not urgent?

**Ms. Marta Kennedy:** I think that members would be concerned if their questions were not answered in a reasonable fashion, and legislative research also has to deal with research questions that come in to the library and are asked.

**Mr. Paul Miller:** Do you have interns?

**Ms. Marta Kennedy:** We have one intern coming in January.

**Mr. Paul Miller:** Why don't you assign the intern to it?

**Ms. Marta Kennedy:** To the regulations?

**Mr. Paul Miller:** Yes.

**Ms. Marta Kennedy:** I'm not sure that the intern would have the appropriate knowledge to do it.

**Mr. Paul Miller:** That's why you're there. She can come and ask.

**Ms. Marta Kennedy:** That's true, but the people who review the regulations are actually lawyers.

**Mr. Paul Miller:** Can I ask you a question? No disrespect to you, but how do they expect a committee to function properly if we're six or eight months or a year behind with information? If you require information, I guess you've got to go to the library yourself and get it, and it may be outdated or not up to date. How do you function on this committee with improper information?

**Ms. Marta Kennedy:** Do you mean you as a committee member?

**Mr. Paul Miller:** Yes.

**Ms. Marta Kennedy:** I guess I can't answer that question.

**Mr. Paul Miller:** Oh.

**Ms. Marta Kennedy:** I know it has always been a concern of legislative research that we are behind, and there have been pushes to get us back up to date.

**Mr. Paul Miller:** Do you need more people? You can say yes. Don't be shy.

**Ms. Marta Kennedy:** More people are always useful.

**Mr. Paul Miller:** Okay. Good answer. Thank you.

**The Chair (Mr. Michael Prue):** That appears to be the end of general questioning. Perhaps we should start going through the various ministries, starting with the



Ministry of Agriculture, Food and Rural Affairs, which is the first one reported on page 8 and which is also the first one in the overview.

**Ms. Marta Kennedy:** Right.

**The Chair (Mr. Michael Prue):** Could you describe this and what needs to be changed.

**Ms. Marta Kennedy:** Okay. We're on page 8, and it's a regulation under the Nutrient Management Act, 2002. It's the general regulation made under this statute, and is administered by the Ministry of Agriculture, Food and Rural Affairs. This is one of two regulations in this report where the ministry believes that the regulation does not violate the committee's guidelines, and this is included in the draft report as a potential violation of the clarity-of-language guideline.

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The Nutrient Management Act deals with things like generation and storage of nutrients and their application to land. You probably know what nutrients are. They are things like fertilizer, manure, compost—

**Mr. Gerry Martiniuk:** That's our job.

**Mr. Paul Miller:** We hear a lot of nutrients every day. Lots of nutrients in the House.

**The Chair (Mr. Michael Prue):** Go ahead.

**Ms. Marta Kennedy:** This is the main regulation. We're looking at the section of the regulation that deals with NASM plans. What's NASM? NASM is non-agricultural source materials, which are nutrients that come from off the farm, things like sewage biosolids, food processing waste, that kind of stuff.

A farmer who uses those kinds of nutrients—NASM—may be required to have a NASM plan. What's a NASM plan? It's a plan that deals with the storage of this NASM on the farm and its application to land.

The regulation says that land that is covered by a NASM plan is exempt from part V of the Environmental Protection Act. Part V of the Environmental Protection Act deals with waste management and it requires a certificate of approval to be given before NASM can be applied to land. Without this exemption in the regulation, a farmer would have to go and get a certificate of approval under the EPA before he could spread this type of nutrient on his land.

The question is, can this regulation that's made under the Nutrient Management Act exempt land from the requirements of the EPA? This is kind of a problem, because normally a regulation can't do that unless there is specific authority in the act. It's even more unusual for a regulation to exempt things from the application of another act.

We wrote to the Ministry of Agriculture, Food and Rural Affairs and we said, "This is very odd. You don't seem to have authority for this part of this regulation. What's going on?" They said, "This isn't actually an exemption. These are the conditions for getting the exemption." If you look at the regulations under the EPA, the regulations there have the actual exemption. So we thought, okay, if the actual exemption is in the EPA, which they're allowed to do—they're allowed to exempt

land from being required to get a certificate of approval—if that's where the exemption is under the EPA, what's this thing doing over here in the nutrient management regulations? It looks like an exemption. If you look at it, they actually called it an exemption. At the bottom of page 8, it says, "Exemption, part V of Environmental Protection Act."

Given what the ministry said, we thought, okay, if it's not supposed to be an exemption, then there's a problem with the language here. If it's just supposed to be the conditions for the exemption—the description of the type of land, the situation under which you'd get the exemption—then perhaps this part of the regulation should be rewritten so this is clearer.

**The Chair (Mr. Michael Prue):** Mr. Martiniuk, then Mr. Miller.

**Mr. Gerry Martiniuk:** We don't have the particular sections of the statute to see if there are any limitations in the sections, and I assume there are not per se; that depends on the wording.

Let me give you a hypothetical situation where the Legislature, for whatever reason, saw fit not to permit regulations under a statute. Let's assume that, and let's assume the environmental act, the EPA, has that provision. Now, all of a sudden, in another act, where the Legislature has given them permission to make regulations, what the ministry is saying is that somehow that right to make regulations under this act is going to affect the EPA. In effect, it's a regulation of the EPA.

The Legislature has already said it's not going to permit you to have a regulation under that statute. How is that possible?

**Ms. Marta Kennedy:** That's not quite the situation we have here, but yes, that is a variation of the situation we have here.

**Mr. Gerry Martiniuk:** I have to simplify it in my own mind.

**Ms. Marta Kennedy:** Right. That's why we wrote to them and asked whether there was a problem.

One way to fix this is to put into the Nutrient Management Act, "Regulations under the Nutrient Management Act can create an exemption from the Environmental Protection Act." It would be odd, but you could do it.

Another way to do it is to change the regulations under the Nutrient Management Act so that it just says that to get an exemption under the EPA, the land has to do this, this, this and this; you have to meet these requirements. That's the possible recommendation that is in the report, which of course you can change as you like.

**Mr. Gerry Martiniuk:** I'm still not—you're going to change the agriculture act to affect the EPA on another matter—

**Ms. Marta Kennedy:** No.

**Mr. Gerry Martiniuk:** —or you're going to change the EPA regulation to affect the other act?

**Ms. Marta Kennedy:** No. Change the nutrient management regulation so that all that it says—right now it says, "A NASM plan area that satisfies the following requirements is exempt from part V of the Environmental Protection Act," okay?



**Mr. Gerry Martiniuk:** Yes.

**Ms. Marta Kennedy:** What you could possibly do, and it would be up to the ministry to decide, is say that to get an exemption from the EPA, you have to meet these requirements. That's not the actual exemption; it's just the conditions for the exemption.

Right now, there's an actual exemption in the EPA regulation. The EPA regulation says that a NASM plan area is exempt from part V of the Environmental Protection Act, or the requirements to get a certificate of approval—something like that. That's fine, because they have that authority in the EPA so they can make those regulations. The problem is the regulation under the Nutrient Management Act.

**Mr. Gerry Martiniuk:** Okay, but does the section itself in the Nutrient Management Act specifically authorize them to make regulations that affect other statutes?

**Ms. Marta Kennedy:** No. One of the things it says is, "The Lieutenant Governor in Council may make regulations ...

"(e) exempting any agricultural operation, person or thing or class of agricultural operation, person or thing from the application of this act, the regulations or a provision of this act or the regulations and prescribing conditions for the exemptions;"

**Mr. Gerry Martiniuk:** Okay.

**The Chair (Mr. Michael Prue):** Mr. Miller.

**Mr. Paul Miller:** I think you've got a problem here with the way you're going about this, because the Environmental Protection Act is there. It depends on the land usage. A farmer or agricultural or other related industry could be using hazardous material for whatever growth or whatever particular item they're dealing with that also affects—it has to be under the Environmental Protection Act, because it goes into the rivers, lakes and streams that surround the farms.

You cannot eliminate the Environmental Protection Act from governance. Certificates of approval are given to landfills, industrial sites and chemical plants. There are some pretty strong chemicals that are used in the farming industry that would have access, through the soil, through erosion, to go into your lakes and streams.

I don't like the fact that we're doing an end run around the Environmental Protection Act to rectify the situation with NASM. If you do that, you've actually eliminated the jurisdiction of the Ministry of the Environment. I'm not sure I like the way you're going with this. You're giving an exemption from NASM, the exemption is being removed from the Environmental Protection Act and you're putting it under the natural resources act, but I'm not quite sure it'll have the impact because they won't have the inspectors that the Ministry of the Environment has if there's a problem. So I think you're creating a problem for yourself here.

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**Ms. Marta Kennedy:** Whether or not it's a good idea is really not what we're looking at here. But I will say this: My understanding of what happened when they

made these amendments was that the Ministry of the Environment and the Ministry of Agriculture, Food and Rural Affairs got together and decided how they were going to divide up dealing with the application of nutrients on farms, the storage of nutrients on farms. What they decided was that farmers would have to create different types of plans for dealing with generation of nutrients, storage, application, and these plans would have to be approved by agriculture, food and rural affairs, and the Ministry of the Environment would be responsible for enforcement. That's how they divided it up. They decided that they wouldn't need these certificates of approval because they're going to have these plans and strategies that have to be approved by OMAFRA. Environment and OMAFRA decided that this was appropriate and went ahead with these amendments.

**Mr. Paul Miller:** Are you saying that the farming industry is going to regulate the nutrient disposal, nutrient storage, and all the Ministry of the Environment is to do is to act on complaints or dumpage or whatever may come up that affects rivers, lakes and streams?

**Ms. Marta Kennedy:** I'm not sure, because I don't really know—

**Mr. Paul Miller:** Well, I'm having a real problem with this. I think we should get more information from both ministries before we move ahead with any stuff like this.

I'll tell you, I remember an incident in Hamilton where they had the Taro landfill and they had a farm right next door, and they were worried about stuff coming through the liners and going into the farmland, which was perfectly good farmland, which now has been condemned and they're having problems. The farmers got sick. They sold their land. They're gone, and it's up in the air. It's in the courts. The farmers are suing what used to be Philip Environmental for loss of income and all the things that go along with a farm.

I'm not quite sure they've looked at this as well as they should have, and I personally will be asking questions about this. I don't like where this is going.

**The Chair (Mr. Michael Prue):** I have Mr. Leal and then Mr. Levac.

**Mr. Jeff Leal:** I just want to ask a question for clarification. If a farmer was using a material like Sound-Sorb, which is a paper biosolid mixed with sand, then he or she would have to file under NASM to use that material. Is that correct?

**Ms. Marta Kennedy:** You'd have to ask OMAFRA specifically, but my understanding is that if you want to spread that type of material on your farm, you have to file and prepare and get approved a NASM plan, which covers the application of this and the storage of this application to your farmland.

I should also say that I believe that these don't come into force until January 2011. Currently, I don't think they have to do it.

**The Chair (Mr. Michael Prue):** Mr. Levac.

**Mr. Dave Levac:** I start by asking for forgiveness regarding my ignorance on this committee work that



we're asking. I just need clarification for myself to understand exactly what we're doing.

I listened to the last two questioners and I see questions based on the actual content, as opposed to—and maybe I am wrong—the process and investigating regulations as they pertain to this committee: what they mean, how they apply and what they're doing, versus the content.

Could I get some clarity on that for my sake, so that I can understand? I'm hearing an in-House debate as to whether or not they like or don't like a regulation, versus whether or not we're reviewing regulation. I'm not sure. I just need some clarity on that, please.

**The Chair (Mr. Michael Prue):** Well, if I can: If all members turn to page 10, there is a possible committee recommendation. I think maybe that spells out what the solicitor is trying to do, that "The Ministry of Agriculture, Food and Rural Affairs amend" the sections "to clarify that s. 8.3(1) only sets out the requirements necessary to obtain an exemption," because it's not clear in the regulation.

**Mr. Dave Levac:** I see.

**The Chair (Mr. Michael Prue):** Our job is to point out to the various ministries how their regulations may be misinterpreted.

**Mr. Dave Levac:** Got it.

**The Chair (Mr. Michael Prue):** That's our job. Our job is not to write the regulations or anything else. That's up to the various ministries. That's where we're heading; we're heading in this direction. Either we want to do this or we don't; we want to hear people to determine whether we make this recommendation or we don't. But we can't go behind all these ministries and all these regulations and why they did it.

**Mr. Dave Levac:** I appreciate that clarity, because I just wanted to make sure I had an understanding of the committee's work regarding the content of a regulation and requesting legislative research to provide us with some information and background as to whether or not the regulation is appropriately placed, if it has content that needs to be questioned. I'm clear. I was getting kind of torn in different directions and I needed clarity.

I apologize again, because it was just my ignorance due to not being on the committee; I'm a sub. I just wanted to get that understood, and I appreciate that, Mr. Chairman.

**The Chair (Mr. Michael Prue):** Mr. Miller again.

**Mr. Paul Miller:** Yes, just for Dave's benefit: Basically, if we okay the recommendation, we've moved it on back to the House. If you have any questions or you're concerned about the committee's recommendation, you discuss it here.

**Mr. Dave Levac:** Got it.

**Mr. Paul Miller:** Those were my concerns. They're on the record now. If it passes, it passes, but at least I've brought my concerns forward.

**Mr. Dave Levac:** I just needed some clarity to understand in terms of where the outcome was with regard to

the evaluation of the regulations, so I appreciate the clarity.

**The Chair (Mr. Michael Prue):** If I can just read from the standing orders, although this is difficult as well, the standing order says that the committee is "to examine the regulations with particular reference to the scope and method of the exercise of delegated legislative power without reference to the merits of the policy or objectives to be effected by the regulations or enabling statutes ... " Then there's a whole bunch of "in regards to."

So we are to look at the scope and method of the exercise of the delegated power, but not the merits of the policy or the objectives.

**Mr. Dave Levac:** It's helpful that you did that for me, because I was teetering, so thank you.

**The Chair (Mr. Michael Prue):** Okay, yes.

**Mr. Gerry Martiniuk:** My only concern is whether or not this is—the effect of it, between statutes—in fact a legal regulation. I'm not dealing with the merits of it at all. I don't even understand the merits at this moment.

My question to counsel is very simple. The recommendation, as set out on page 10: Will that result in a legally enforceable regulation?

**Ms. Marta Kennedy:** I would hope so.

**Mr. Gerry Martiniuk:** Oh no. No, no.

**Ms. Marta Kennedy:** Okay. If it's done—

**The Chair (Mr. Michael Prue):** I think he's looking for a definitive answer.

**Ms. Marta Kennedy:** If it's done properly, yes. It will always depend on the wording.

**Mr. Gerry Martiniuk:** Yes? We have a recommendation which we're going to make to the House, and my question is, are we recommending something that will legally solve the problem or not? If not, then we shouldn't be recommending it, that's all. It's as simple as that.

**Ms. Marta Kennedy:** Right. Again, it will depend, as with anything, on the wording. In my opinion, it would be possible to fix this by changing the wording to make it clear that, if you look at—

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**Mr. Gerry Martiniuk:** No, no; I'm looking at the recommendation. The suggestion is that we make this recommendation as set out on page 10.

**Ms. Marta Kennedy:** Right.

**Mr. Gerry Martiniuk:** Does that clarify the situation and ensure that this regulation would be legally enacted under the terms of the statute?

**Ms. Marta Kennedy:** I think the only way to do that would be to actually set out the actual wording of the section as you want it changed. So if you actually set out "to amend this section so that it reads as follows," that would be sufficient, presumably. But the recommendation as set out here gives a bit more leeway.

**Mr. Gerry Martiniuk:** Yes. Is it within the jurisdiction of this committee to recommend a particular specific change to the regulations, or are we merely to make generalities?

**Ms. Marta Kennedy:** I think—



**The Chair (Mr. Michael Prue):** I don't believe it's within our mandate to write the regulation. Correct me if I'm wrong. I don't think—

**Mr. Paul Miller:** Well, with all due respect, Mr. Chairman, you're asking us to pass something that a couple of members have concerns about. If we're not sure that it's done right, if we're not sure that it has the proper content, then why are we passing it or why are we moving ahead with something that may be insufficient or could be questioned further down the line? To me, that's a waste of bureaucratic time. It's a waste of our time to recommend something that might not be legal in the sense of the word.

I personally have some concerns about this end run we're doing around the Ministry of the Environment. I don't like it. So I will not be voting for this because, with all due respect to legislative research, she's kind of hoping everything is okay and it's going to go through. It wasn't a definitive answer, so I personally will not support this recommendation in its present form if it's not completely covering all the bases. It's as simple as that.

**The Chair (Mr. Michael Prue):** Mr. Levac.

**Mr. Dave Levac:** After hearing what I heard, for my clarification, that's exactly what makes the world go round. I mean, Mr. Miller doesn't like it; we might. We get to that point where we believe that it's being covered off the way we're hearing the recommendation coming from legislative research.

There will be an analysis of this on an ongoing basis. It does not mean that this is the be-all and end-all, because at one point, if Mr. Miller is right, there will be a challenge and there will be somebody from the legal society somewhere who will say, "I think it's illegal to do this." And with all due respect to Mr. Martiniuk, I honestly believe that we might get different opinions from different lawyers. I think I've seen a room where we had three lawyers and got seven different opinions.

That's why I asked the question: to make sure that we have clarity on exactly our purpose. I believe I've heard you clearly, that the purpose is not to deal with the content of the regulation but to ensure that it complies. As Mr. Martiniuk is rightfully asking, does it comply with the capacity of our committee to make these recommendations, whether they're liked or disliked? This is the direction that we're asking.

**The Chair (Mr. Michael Prue):** It's not just our committee. With respect, the recommendation we make would be to the ministry, that there is a possible difficulty in the regulation. The recommendation is, "This is what is necessary to possibly fix it before some legal problem develops." That's what we're doing.

**Mr. Dave Levac:** And that's what I'm saying. That's what I feel clear about now that I've heard the description. You've said yourself that you believe you've covered the scope of what our committee is supposed to be doing.

Inside of that, I heard Mr. Miller say he's not happy with that. If it's a vote on this recommendation, does it not come to a vote on whether or not we do this recom-

mendation? If the vote carries, then that recommendation gets to the ministry to make a decision on how it's going to receive that recommendation or information, correct?

**The Chair (Mr. Michael Prue):** That is correct, and what we have done in the past when we don't understand is we have invited people from the ministry. Has the ministry been consulted, and are they opposed to this or do they like it?

**Ms. Marta Kennedy:** They haven't been consulted on the recommendation.

**The Chair (Mr. Michael Prue):** But do they say that there's a potential difficulty here?

**Ms. Marta Kennedy:** No. Originally, we had written the ministry to say, "We don't think that you have the authority in the statute to make this regulation." They wrote back and said, "Well, we're not doing what you think we're doing. What we're doing is something different. We're not creating an exemption; we're setting out what you have to do to get the exemption, the requirements for the exemption." That's why we said, "There's a problem, then, with the language. It's not with the authority for the regulation; it's the problem with the language," because the language makes it look like there's an actual exemption in the regulation. If all you want to do is set out the requirements to get this exemption, then you need to change the language so that it's obvious.

**Mr. Dave Levac:** Makes sense.

**The Chair (Mr. Michael Prue):** Okay. Mr. Miller?

**Mr. Paul Miller:** With all due respect to Mr. Levac and this committee, I'm here to recommend to the House whether this recommendation should go ahead or not. I'm not here, in my humble opinion, to rubber-stamp things that can be argued down the road. What is the purpose of this committee? Just to rubber-stamp recommendations that people bring forward without discussion, without inquiry, without telling what you don't like about it? What is my function here? To just say, "Go ahead with the recommendation"?

I really would like you to read that thing you read earlier. It's basically telling me I'm just rubber-stamping something from the ministry. I can't discuss it; I can't argue it until it gets to the House. So what is the purpose of this committee?

**The Chair (Mr. Michael Prue):** The purpose of this committee, or of our exercise here, is to examine the regulations—

**Mr. Paul Miller:** To examine the regulation—

**The Chair (Mr. Michael Prue):** —with particular reference to the scope and method of the exercise of the delegated legislative power. This has to be done without reference to the merits of the policy. What we're doing is we're looking at it and saying, "Ministry, we don't think what you're trying to accomplish can be accomplished by this regulation because there's something wrong with it and you should fix it."

**Mr. Paul Miller:** But you're saying at the end of that, which contradicts the first part of it—it says, in reference to the mandate, "We can discuss it, but we can't make reference to the content." What is that? It's double talk.



Read that again. We're saying that we can't talk about it, but we have to recommend it. It's double talk.

**The Chair (Mr. Michael Prue):** Unfortunately, it's in the standing orders. I mean, if we disagree with the standing orders—

**Mr. Paul Miller:** I do. I think it's ridiculous.

**The Chair (Mr. Michael Prue):** Then somebody can move a motion asking whoever looks at the standing orders to possibly look at this and say that this committee should have different authority. This is only set out for us to go through some regulations once or twice a year to see whether or not they are meeting the objectives of the various acts.

**Mr. Paul Miller:** But we can't discuss the content or make reference to it.

**The Chair (Mr. Michael Prue):** Because that's the job of the Legislature.

**Mr. Paul Miller:** So what's our job?

**The Chair (Mr. Michael Prue):** Our job is to see if there are mistakes.

**Mr. Dave Levac:** It's the process, Paul.

**Mr. Paul Miller:** Process? Well, the process needs to be changed, and I am making a motion.

**The Chair (Mr. Michael Prue):** The House has to change the standing orders. The committee can't change the instructions given to them.

**Mr. Paul Miller:** That's ridiculous. Whatever; another stupid thing. Okay.

**The Chair (Mr. Michael Prue):** Mr. Johnson.

**Mr. Rick Johnson:** I was just going to say that my understanding, in clarifying, is that if we find something that we think is wrong and potentially clashes with others our job here is to point that out. Then it's up to the affected ministries to straighten it out, report back to us and say, "Thank you for pointing this out. We've taken care of it." Will they report back on this?

**Mr. Paul Miller:** No, we can't make reference to the content.

**Mr. Rick Johnson:** No, but we can make reference to the fact that we think something is wrong with it, and it's up to them to correct it.

**Mr. Paul Miller:** That's reference to the content.

**Mr. Rick Johnson:** No, it's not. It's about the process, which is what this recommendation does.

**Mr. Paul Miller:** Oh, Christ. It's all a bunch of double talk.

**Ms. Marta Kennedy:** I think I'll just answer Mr. Johnson's question first. Then I might be able to clarify Mr. Miller's point.

In this report, we do have, at the end, a new section which is an update to regulations that were included in the previous report and what the ministries have done since then. The ministries do not automatically report back to the committees on what they have decided to do with the committees's recommendations. That can be included in a recommendation to ask the ministry to report back to the committee. We have followed up with some of the regulations, some of the recommendations.

It's up to you what you would like to happen going forward with these recommendations.

I think, Mr. Miller, that what the standing orders say is that what this committee is supposed to do is look at whether or not the regulation is, in essence, legal. It's not looking at whether the content is good or whether the implementation of the regulation is good or whether it's a fair regulation or whether—

**Mr. Paul Miller:** Can I ask a question? If the content is not good, then it's probably illegal.

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**Ms. Marta Kennedy:** Not necessarily.

**Mr. Gerry Martiniuk:** Chair?

**The Chair (Mr. Michael Prue):** Before, if I can just clarify, if people look at this report—we've done this before on other things and, I'll tell you, this is a frustrating exercise because we went through this last year. If you turn to pages 16, 17, 18 and 19, you'll see what we did the last time. We recommended a change to the Early Childhood Educators Act; that's number one, the first one. The act was amended to create the authority and, effective June 3, "the provision of the act that was in conflict with the regulation was repealed." So the ministry did something.

If you look at the next one, over on to page 17, the ministry response to the recommendation was, "As of November 1, 2010, the regulation has not been amended." So they did nothing with it.

If you look down at the bottom of the page, with the transit projects of greater Toronto, the ministry response was "None."

"The ministry was contacted by letter dated November 10 ... regarding this regulation and a subsequent amendment...." The ministry has chosen not to act. And on and on it goes, all the rest. The ministry didn't act.

We made five recommendations last time and only one had the effect that the committee—

**Mr. Paul Miller:** Can I ask a question?

**The Chair (Mr. Michael Prue):** Yes.

**Mr. Paul Miller:** Was the recommendation we made on content or was it on procedure?

**The Chair (Mr. Michael Prue):** Every one of them was on procedure.

**Mr. Paul Miller:** So we don't deal with the content, then?

**The Chair (Mr. Michael Prue):** We don't deal with the content, and if you remember—

**Mr. Paul Miller:** What a useless committee.

**The Chair (Mr. Michael Prue):** I think the last one that we spent a lot of time on was the wild turkeys.

**Mr. Paul Miller:** The wild turkeys?

**The Chair (Mr. Michael Prue):** The wild turkeys.

**Mr. Gerry Martiniuk:** That was a drink, wasn't it?

**The Chair (Mr. Michael Prue):** It was not the drink; it was the wild turkeys, about the species, sex, size, age or the type that might be killed. We made the recommendation and the ministry response to that was "None."



It is sometimes an exercise in frustration. The job that the Legislature gave to this committee was to go through and find out if any of the regulations are in error.

**Mr. Gerry Martiniuk:** Mr. Chairman?

**The Chair (Mr. Michael Prue):** Mr. Martiniuk.

**Mr. Gerry Martiniuk:** I'm just concerned with the legalities. I would be satisfied if the recommendation ended and we requested a report by the ministry back to the committee with their resolution of the problem. At least we'll get an answer. It's a little stronger than just passing the regulation, I think.

**Mr. Dave Levac:** I see that as a friendly amendment, actually, because what we're talking about is exactly what you just pointed out on pages 15, 16, 17, which is—the process is to evaluate the legalese of the regulation and make a recommendation that we think we've found a flaw. We got a response from the ministry that said, "But that's not what we're doing. This is what we're doing." So we made a recommendation to address what they're saying. If they take it, it means that this committee was accurate in its assessment of that regulation. If they don't take it, it means that they believe we're not accurate. That's what we're doing. We point that out.

So I would further that by requesting that we do this recommendation with the added caveat of "and report back to the committee on action taken."

**The Chair (Mr. Michael Prue):** I think that should be the recommendation in all—

**Mr. Dave Levac:** On all of it.

**The Chair (Mr. Michael Prue):** We have a number here that we have to deal with.

**Mr. Dave Levac:** Sure. Are we at the point where we can say now that we'd like to decide on our committee recommendation?

**The Chair (Mr. Michael Prue):** Are there any other questions, first? Mr. Miller?

**Mr. Paul Miller:** You guys can do what you want, but bottom line here is, if I'm making a recommendation on a recommendation to the House and I can't discuss content, how can I make a recommendation? Content is part of the regulation. It's one within one. There's total confusion here, and personally I will not be supporting it, because I have problems with that recommendation. It doesn't matter; it's going to go through anyway. It'll be rubber-stamped, but that's fine.

**The Chair (Mr. Michael Prue):** Okay, is there somebody who will make a motion to either adopt or not adopt?

**Mr. Dave Levac:** So moved, with the friendly amendment included.

**The Chair (Mr. Michael Prue):** Okay, what are you moving? Are you moving the recommendation contained on page 10? You have to be a little more specific.

**Mr. Dave Levac:** The committee recommendation on page 10: "The committee recommends that

"1. The Ministry of Agriculture, Food and Rural Affairs amend s. 8.3(1) of O. Reg. 267/03 (General) to clarify that s. 8.3(1) only sets out the requirements necessary to obtain an exemption from part V of the Environ-

mental Assessment Act, and does not create an exemption," and that the ministry report its action back to this committee.

**Mr. Paul Miller:** Mr. Chairman, I'd like a recorded vote on this.

**The Chair (Mr. Michael Prue):** All right, there will be a recorded vote, but first of all, discussion on the motion by Mr. Levac. Mr. Martiniuk.

**Mr. Gerry Martiniuk:** My question is, is there ever any debate in the House when we make this report? Is there an opportunity for debate in the House to discuss the merits of the regulation?

**Mr. Paul Miller:** I don't remember any.

**Mr. Gerry Martiniuk:** We discuss the merits of the statute and the section, and then the government establishes regulations. That's their function; that's the way the parliamentary system works. Is there ever an opportunity for the merits of those regulations to be discussed? I'm not talking about the procedure; that's what we're doing here. But is there ever an opportunity to discuss the merits of the regulations per se?

**The Chair (Mr. Michael Prue):** I think the clerk has the appropriate answer to this.

*Interjection.*

**The Chair (Mr. Michael Prue):** I could say it, but he will say it so much better.

**Mr. Paul Miller:** So who knows, really?

**The Chair (Mr. Michael Prue):** Well, he knows better than I.

**The Clerk of the Committee (Mr. Katch Koch):** All committee reports to the House are placed on the order paper for the government to call for debate.

**The Chair (Mr. Michael Prue):** So if the government calls them for debate, they're debated; if the government doesn't call them for debate, they're not.

**Mr. Paul Miller:** So they never call regulations. I never saw any discussed—ever. In three years, I've never discussed a regulation in the House. So the government doesn't call it; they just rubber-stamp it.

**The Chair (Mr. Michael Prue):** But it's the role of the governing party to do that.

**Mr. Paul Miller:** Okay, that's fine. It's a lousy procedure, but that's the way it is.

**The Chair (Mr. Michael Prue):** Mr. Levac.

**Mr. Dave Levac:** I beg to differ. Specific to the question Mr. Martiniuk asked, yes, the clerk has indicated one avenue to debate it. There are motions, there are opposition day motions, there are private member's bills and there's opportunity in the House at any time in debate on a bill for anyone to make a point on a regulation contained therein. So the House is probably the one spot where there's very little opportunity for someone not to talk about any topic they choose.

In terms of the process, the one thing I will give to Mr. Miller's concern is that the process does not specifically take regulations and expose them on an ongoing basis for debate in the House, because inside of that is the understanding that legislation that requires regulations, when debated, is a spot where that would come too. It has



come to the House on occasion, where someone says, “Yes, the same old same old. You’re going to do it in regulations. So what about this, what about that?”

Is it specific to the question you asked? No. Is it generalized, where absolutely anything can get discussed? Specifically in this room with these members present, knowing they have reviewed the regulation and they’re not happy with it, is there a spot for them to bring that to the House? Absolutely, under any circumstance. But specific to it, you could offer it as an opposition day motion, you could offer an opposition day dedicated to regulations, you could offer a private member’s bill or you could offer a private member’s motion and such.

So quite frankly, in the broader context of this discussion, there’s all kinds of opportunity to bring a concern about what an individual regulation means or doesn’t mean. As a matter of fact, there have been some petitions designed because of a regulatory stream, specifically around the environmental act, where communities actually put a petition together to talk about regulation 621 of the environmental act—just numbers to be used as an example—where they say that that’s going to impact their community. They’ve issued petitions and offered an opportunity for those to be read into the House.

I hope I’ve covered off a lot of the avenues and the areas in which people can make that point heard.

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**Mr. Gerry Martiniuk:** Minority reports.

**Mr. Dave Levac:** Not in report.

**Mr. Gerry Martiniuk:** No. A minority report.

**Mr. Dave Levac:** Oh, yes, you can.

**Mr. Gerry Martiniuk:** Any member of this committee can make a minority report.

**Mr. Dave Levac:** And a member can order a report.

**Mr. Tony Ruprecht:** If the member so chooses.

**Mr. Dave Levac:** Absolutely.

**Mr. Tony Ruprecht:** The opportunity is there.

**Mr. Gerry Martiniuk:** They can raise anything. No one censors that, so they could raise merits, for that matter.

**Mr. Dave Levac:** Absolutely.

**The Chair (Mr. Michael Prue):** Mr. Miller.

**Mr. Paul Miller:** Maybe Mr. Levac can tell me when petitions are discussed in the House.

**Mr. Dave Levac:** They’re responded to by the government after 30 days.

**Mr. Paul Miller:** Yes, but they’re not discussed in the House.

**Mr. Dave Levac:** They’re read into the House; they’re read into the record.

**Mr. Paul Miller:** They’re not discussed in the House.

**Mr. Dave Levac:** As a debate?

**Mr. Paul Miller:** They’re read in, so that’s false. They’re not discussed.

**Mr. Dave Levac:** Jesus. Somebody needs a coffee and a warm milk and an apple.

**The Chair (Mr. Michael Prue):** I think we’re straying a little bit.

**Mr. Gerry Martiniuk:** We’re not going to finish today.

**The Chair (Mr. Michael Prue):** I’m not sure we’re going to finish today in any event. We’re only on the first one.

Is there any other discussion? Does anybody else want to say anything?

All right, then. I have the motion made by Mr. Levac, which is the recommendation on page 10 with the addendum that we ask the ministry to report back to this committee on what they do with our recommendation. Okay?

**Mr. Gerry Martiniuk:** Recorded vote.

### Ayes

Johnson, Leal, Levac, Martiniuk, Ruprecht.

### Nays

Paul Miller.

**The Chair (Mr. Michael Prue):** That is carried.

We have the second, from the Ministry of Community and Social Services. If we could have a general discussion of why you believe that the regulation may not be doing what it was intended to do?

**Ms. Marta Kennedy:** This is a regulation that appears to have a similar problem to the previous regulation, in that the regulation attempts to exempt disclosure of information under this regulation from another statute. What we’re talking about here is an adoption information disclosure regulation under the Child and Family Services Act, and the regulation says that information is allowed to be disclosed under this regulation even if its disclosure violates the Vital Statistics Act.

Again, there does not appear to be authority in the Child and Family Services Act to make regulations that override the provisions of the Vital Statistics Act, so we asked the ministry about it. They wrote back and they said, “Well, no, there isn’t authority”—they didn’t quite say that. What they said was that this part of the regulation was added to clarify that a disclosure veto filed under the Vital Statistics Act or a notice of no contact filed under the Vital Statistics Act, those types of things, do not prevent information from being disclosed under the Child and Family Services Act. We’re talking about non-identifying information held by children’s aid societies and things like that. So they said that it’s just for clarity and it doesn’t actually have any legal function, which leads to the question: If it doesn’t have any real legal effect, why is it there?

The possible recommendation is that the ministry revoke this section so that it’s no longer there, because if it doesn’t do anything, if it’s in effect meaningless, it just serves to confuse, in my opinion.

**The Chair (Mr. Michael Prue):** Has the ministry been consulted, and what is their opinion?

**Ms. Marta Kennedy:** Their opinion is that the point of that part of the regulation is to clarify that a disclosure



veto filed under the Vital Statistics Act doesn't affect the Child and Family Services Act. They think it's fine.

**The Chair (Mr. Michael Prue):** Okay. And you think it's not?

**Ms. Marta Kennedy:** Yes.

**The Chair (Mr. Michael Prue):** Okay. There you go.

All right, Mr. Martiniuk.

**Mr. Gerry Martiniuk:** Tell us what the background of the concern is. Is it simply that some individuals who are adopted or adoptive parents will use the Vital Statistics Act to obtain the identity of the adopting parent or the adopted child? Is that the concern? Why are we even dealing with it?

**Ms. Marta Kennedy:** I'm not sure what the concern was. What they said was that the purpose of that part of the regulation is to clarify that these disclosure vetoes can't prevent the disclosure of non-identifying information held under the Child and Family Services Act.

**Mr. Gerry Martiniuk:** Do we have a list of that information?

**Ms. Marta Kennedy:** The information is non-identifying information held, for example, in children's aid society files, so things about the parent that don't identify the person: their hobbies, their background, the type of work they did—that sort of thing. The Child and Family Services Act has a process to allow this information to be disclosed, and this section of the regulation says that even if you have this non-disclosure veto under the Vital Statistics Act—which is the identifying information prevention filed under the Vital Statistics Act—that non-disclosure veto can't prevent this other information over here from being disclosed under the Child and Family Services Act.

What the ministry said in their letter was, "That non-disclosure veto doesn't have anything to do with the disclosure of non-identifying information anyway; it can't prevent it, it has nothing to do with it. We just put this section in here to make it clearer to someone who's reading it that this non-disclosure veto doesn't prevent the disclosure of non-identifying information."

**Mr. Gerry Martiniuk:** Okay. Gentlemen, my only concern is that the House has made it clear that where a person files a veto, their identity is sacred, for obvious and good reasons; I've talked to a number of my constituents over this matter. I just want us to be certain in our own minds—maybe I'm dealing with the merits, but I want to be certain—that this doesn't open the door for individuals to obtain identity information on their adoptive parent, which would be contrary to the intent of this Legislature on two occasions, I believe.

That's my only concern. I don't know how we can ask that question.

**The Chair (Mr. Michael Prue):** Mr. Miller.

**Mr. Paul Miller:** I was just handed the standing orders, and it says here, under Standing Committee on Regulations and Private Bills—that's us—"the committee shall from time to time report to the House its observations, opinions and recommendations as required by section 33 of part III (Regulations) of the Legislation

Act, 2006, but before drawing the attention of the House to a regulation or other statutory instrument, the committee shall afford the ministry or agency concerned an opportunity to furnish orally or in writing to the committee such explanation as the ministry or agency thinks fit."

I am assuming that that would include content, because that's what that says: "observations, opinions and recommendations." Would observations and opinions be considered content? If you're not giving observations, opinions and recommendations on content, what are you giving observations, opinions and recommendations on?

**Mr. Tony Ruprecht:** You're like a dog with a bone.

**Mr. Paul Miller:** Well, I'm sorry. I'm just reading the rules. That kind of contradicts what's been said before.

**The Chair (Mr. Michael Prue):** As I understand—and I've only been the Chair of this committee now for the last three years—in the past, this was accommodated by way of the research or legal person writing to the ministry and seeking clarification and their thoughts. That's how it has been done.

**Mr. Paul Miller:** So section 33, part III, means nothing?

**The Chair (Mr. Michael Prue):** I'm not here to interpret that. That's the way it has been done in the past.

**Mr. Paul Miller:** Okay.

**The Chair (Mr. Michael Prue):** A number of speakers now: I have Mr. Leal, then Mr. Levac and Mr. Ruprecht.

**Mr. Jeff Leal:** The intent, as I understand it—and I've had constituents talk to me about this—is that the two statutes are consistent, and that information that is in a locked box will always stay in the locked box, basically.

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**The Chair (Mr. Michael Prue):** Mr. Levac.

**Mr. Dave Levac:** If I could get a response from the legislative researcher, Ms. Kennedy. Gerry is absolutely correct. There was never anyone who spoke who did not understand that the veto meant veto. If Mr. Martiniuk's question is very simple, and that is, doing this would unlock that box, it's a problem for the intent of the legislation. If the regulation is written in such a way or we remove a section of a regulation in any way to unlock that box, we need to know that.

**Ms. Marta Kennedy:** According to the ministry, the Vital Statistics Act and the Child and Family Services Act deal with different types of information. The Vital Statistics Act deals with identifying information. The Child and Family Services Act deals with non-identifying information. When this regulation was originally made, it did not include this section about disclosure vetoes not overriding the disclosure of non-identifying information.

The ministry says that they included that section for clarity. Perhaps they had questions from people saying, "I filed a disclosure veto. Why is this non-identifying information being disclosed?" I don't know. They didn't say.

What the ministry does say specifically is, if sub-section 2.1(1), which is the section we're talking about,



was not part of the regulations, notices of contact preference, no-contact notices and disclosure vetoes would not affect the disclosure of information under O. Reg. 464/07. However, subsection 2.1(1) provides greater clarity to the reader. It makes clear to the reader of the law that a notice or veto under the VSA does not affect or prevent the disclosure of information by a custodian or children's aid society under that regulation.

**Mr. Dave Levac:** I defer to Mr. Martiniuk on this, but I'd make a comment and then ask him to respond.

If what we're hearing is that the ministry has taken that into consideration and is acknowledging in writing that it would not have a negative impact on the veto that everyone acknowledges is the purpose, then I don't have a problem with it, but I caution us to get that completely verified.

Am I hearing you to say that the ministry does not believe it would have an impact on the veto?

**Ms. Marta Kennedy:** That's my understanding of what they've said, yes.

**Mr. Dave Levac:** Okay. I will then defer to Mr. Martiniuk if he's satisfied with that.

**Mr. Gerry Martiniuk:** It's difficult to follow it just being read to us, quite frankly. I would prefer to have that in front of us so we could discuss it at our next meeting.

**Mr. Dave Levac:** I agree with Mr. Martiniuk because, quite frankly, as strongly as his constituents—I've had the same type of constituent, and I'd hazard a guess that everyone who has had this debate has made it quite clear about the veto, and I would like to feel comfortable that that is the case. So, at a later date, a copy of this—I'm not sure, Mr. Chairman—

**The Chair (Mr. Michael Prue):** If we could have a motion to defer this until the next occasion and for staff to provide the necessary documentation that's been requested.

**Mr. Gerry Martiniuk:** I'll so move.

**The Chair (Mr. Michael Prue):** Moved by Mr. Martiniuk. Any discussion on that? All those in favour? Carried.

So we'll hold this one down till the next time, and we'll try to get that information.

We've got about—

**Mr. Tony Ruprecht:** Did you put me down to speak?

**The Chair (Mr. Michael Prue):** Yes, but then we had a motion to—

**Mr. Tony Ruprecht:** Put me down anyway. I want to say something—

**The Chair (Mr. Michael Prue):** Then say something. It's being held till the next day, but put it on the record now.

**Mr. Tony Ruprecht:** I understand. I just wanted to indicate to you that this may be Mr. Martiniuk's last meeting with us. As we just have seen, his contribution to this committee has been very substantial. Consequently, I don't know if you got a chance to thank Mr. Martiniuk officially at this meeting or you want to do it at another meeting, but something like that should be made.

**The Chair (Mr. Michael Prue):** Let's ask him: Is this your last meeting? Are you being replaced? There are two members of the committee from the Conservatives.

**Mr. Gerry Martiniuk:** Anything can happen.

**The Chair (Mr. Michael Prue):** Well, I know that. Are you anticipating that this is your last meeting?

**Mr. Gerry Martiniuk:** No, I'm not. I think we're going to sit in March, at least.

**The Chair (Mr. Michael Prue):** In March, in April or in May.

**Mr. Gerry Martiniuk:** So I will be seeing you then.

**Mr. Paul Miller:** I want you to raise a flag to him.

**Mr. Gerry Martiniuk:** The Cuban flag.

**Mr. Tony Ruprecht:** Mr. Chair, I want you to just ensure that we thank this member for having made a substantial contribution to the meeting when that is appropriate, okay?

**The Chair (Mr. Michael Prue):** When it's appropriate. Okay.

We have approximately five minutes. Do you want to start the next one or do you want to say it's a day, and we'll come back on the next occasion?

**Mr. Tony Ruprecht:** How long will it take?

**Mr. Paul Miller:** Ten minutes, because I'm going to ask questions.

**Mr. Tony Ruprecht:** Can we rush through it?

**The Chair (Mr. Michael Prue):** Well, the next one is the recommendation on the Ministry of the Attorney General and justices of the peace.

*Interjection.*

**The Chair (Mr. Michael Prue):** Okay, let's see how much we can get done in the next five or six minutes.

**Ms. Marta Kennedy:** This regulation is a regulation under the Justices of the Peace Act. The ministry, because it needs to involve a second ministry—the Ministry of Government Services—has asked that consideration of this regulation be deferred to the committee's next meeting.

**Mr. Gerry Martiniuk:** See how fast we get through these things?

**The Chair (Mr. Michael Prue):** Is the committee in agreement to have this held down until the next meeting? Okay. So that's pretty simple.

**Mr. Jeff Leal:** Handled that one. No vote necessary.

**The Chair (Mr. Michael Prue):** No vote necessary here.

The next one is the Ministry of Transportation regulation under the Highway Traffic Act.

**Ms. Marta Kennedy:** For this next set of regulations, the Ministry of Transportation—there's three regulations—has said that it believes that they're fine but it is willing to change them if necessary.

What's happened with this regulation—it's a regulation having to do with races, contests and stunts on highways. The English and the French version of the regulation don't match, or appear not to match. The English version was made first, then the first section of the regulation was revoked. Then they made a French version of the regulation that included a section 1, even though it had been revoked in the English version.



What's happened is that on e-Laws, which is the government website that publishes statutes and regulations, that section 1 from the French version is no longer there. So we asked them, "What happened to section 1 in the French version?" Because the French and English versions of a regulation are equally authoritative. So if a part is missing, if they don't match, that's bad from a legal point of view, but it's okay—you can't say one's the proper version and the other one's wrong. They're equally authoritative; you have to look at both.

We asked them about it and they said, "Well, we don't want section 1 in the French version. We think it's okay that we took it off of e-Laws, but we're willing to revoke it from the French version, if necessary."

**The Chair (Mr. Michael Prue):** Could I ask a question, because I've always understood, under the Official Languages Act, that where there is a conflict between the English version and the French version the French version will predominate, because the French language is far more specific. The Official Languages Act is very clear that the French version will predominate if there is a conflict.

**Ms. Marta Kennedy:** Is the Official Languages Act not federal?

**The Chair (Mr. Michael Prue):** It's federal. Yes, it is.

**Ms. Marta Kennedy:** That's federal legislation, so it doesn't apply specifically to Ontario's statutes. It doesn't govern them specifically. The way the courts have interpreted differing versions of French and English is that they have looked at them and decided that they are equally valid.

**Mr. Gerry Martiniuk:** Did you say that the ministry removed a section of the regulation from e-Laws, that was included in the regulation? They actually just dropped it in the presentation to the public?

**Ms. Marta Kennedy:** The Ministry of Transportation didn't do that. The ministry responsible for e-Laws did it. Now, they—

**The Chair (Mr. Michael Prue):** Which ministry is that?

**Ms. Marta Kennedy:** I'm not sure, but I believe it's government services.

**The Chair (Mr. Michael Prue):** Okay.

**Ms. Marta Kennedy:** I know that when they put something up on e-Laws or they take something down, they do it on the instruction of legislative counsel. So if they removed that section from the French version, I would expect—I don't know, but I would expect—it was on the instruction of legislative counsel.

**Mr. Gerry Martiniuk:** Maybe we should be resolving that e-Laws should reflect the law, both in French and English, as it presently stands. I don't want to embarrass anybody, but that seems fairly elementary to me.

**Mr. Paul Miller:** You can't talk content.

**Mr. Gerry Martiniuk:** Well, we're not talking content; we're talking about what the law is and the representation to the public. We did away with it in 20, but usually we publish the law and make it public.

**Mr. Tony Ruprecht:** I'm prepared to make a motion.

**Interjection:** Uh oh.

**Mr. Gerry Martiniuk:** Well, no; I'm not being facetious. That's a serious matter.

**Ms. Marta Kennedy:** I think that in this case there is perhaps some potential for disagreement in the interpretation, because section 1 in the English version was revoked on May 1, 2009, and on the same day, the French version came into force. So on the same day, at the same moment, the English version lost section 1 and the French version came into force. I guess there's a question of whether or not the French version came into force an instant before the English version removed section 1 and whether that happened—there's potentially a legal interpretation that could permit it. I think it's wrong, myself, but there's potentially a legal interpretation that could permit it.

**Mr. Tony Ruprecht:** Let's fix this.

**The Chair (Mr. Michael Prue):** Okay. Mr. Ruprecht, and then we're going to have to adjourn after him.

**Mr. Tony Ruprecht:** I'm looking to you, Mr. Chair, for a motion on this, because it seems somewhat easy to fix, unless I get this wrong, but why not—here's my motion: It's simply to say that we would ask that the Ministry of Government Services or the Minister of Government Services look into this and either dovetail those two, the English with the French version, or that at least they would be similar as soon as possible.

**Mr. Rick Johnson:** Doesn't the recommendation make it—the ministry states that it's prepared to expressly revoke the French version of the regulation, and what we're saying to them is, "Go ahead," in this recommendation, correct?

**The Chair (Mr. Michael Prue):** Yes.

**Mr. Tony Ruprecht:** Let's vote on that and get it on.

**Mr. Rick Johnson:** They made a mistake; they're going to fix it.

**Interjection:** Motion on the floor.

**Mr. Gerry Martiniuk:** I think Tony's recommendation is dealing with the whole problem, not just this problem. The law in e-Laws should reflect the actual law, whether they like it or not or whether it was a mistake or not. It makes no difference. It's got to be right.

**The Chair (Mr. Michael Prue):** Okay, but there are three recommended courses of action here on pages 13, 14 and 15, all under the same ministry and the same act. Is that correct? No?

**Ms. Marta Kennedy:** No. They deal with different regulations.

**The Chair (Mr. Michael Prue):** Okay. So we're just dealing with the one that's number 4.

Mr. Ruprecht is moving number 4?

**Mr. Tony Ruprecht:** Yes.

**The Chair (Mr. Michael Prue):** Okay, it's been moved. Any discussion? No discussion?

All those in favour? Opposed? That's carried.

All right, I think that's our time for today. We'll come back for the other two that have been held down and recommendations 5 and 6 on the next occasion.

**Mr. Tony Ruprecht:** When?

**The Chair (Mr. Michael Prue):** That would be probably sometime in February or March, when we come back.



I'm not sure 100% of the date; the 22nd has been circled on my calendar, but it is up to the government. They can recall the Legislature earlier or later at their whim. So, sometime after that date.

**Mr. Tony Ruprecht:** Just don't cause an emergency. Ask your party not to do that.

**The Chair (Mr. Michael Prue):** Anything else we need to do today? Then we'll see everybody—the clerk will advise us on the first available date following our return to the House in the new year.

Meeting adjourned.

*The committee adjourned at 1024.*











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## **Legislative Assembly of Ontario**

Second Session, 39<sup>th</sup> Parliament

## **Assemblée législative de l'Ontario**

Deuxième session, 39<sup>e</sup> législature

# **Official Report of Debates (Hansard)**

Wednesday 2 March 2011

# **Journal des débats (Hansard)**

Mercredi 2 mars 2011

**Standing Committee on  
Regulations and Private Bills**

**Comité permanent des  
règlements et des projets  
de loi d'intérêt privé**

Chair: Michael Prue  
Clerk: Katch Koch

Président : Michael Prue  
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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE  
ON REGULATIONS  
AND PRIVATE BILLS

Wednesday 2 March 2011

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES  
RÈGLEMENTS ET DES PROJETS DE LOI  
D'INTÉRÊT PRIVÉ

Mercredi 2 mars 2011

*The committee met at 0900 in room 151.*

**The Chair (Mr. Michael Prue):** This meeting will be called to order. We have two items on the agenda today: Bill Pr40 and Bill Pr43.

S.L. McNALLY CONSULTING  
SERVICES INC. ACT, 2011

Consideration of Bill Pr40, An Act to revive S.L. McNally Consulting Services Inc.

**The Chair (Mr. Michael Prue):** The first bill, Pr40, is An Act to revive S.L. McNally Consulting Services Inc. Mr. Caplan, you have the floor. Would you please proceed?

**Mr. David Caplan:** Thank you very much. It's actually a very straightforward matter. Ms. Sherry McNally is here to speak to it, so I'll turn it over to Ms. McNally.

**The Chair (Mr. Michael Prue):** The floor is yours.

**Ms. Sherry McNally:** Thank you. I opened up my company in 2003 to do IT consulting for Royal Bank of Canada. I consulted there as an independent contractor for approximately five or six years. Then I had a death in the family, so I moved back to Manitoba.

My sister, being my accountant, dissolved my corporation because even though there were no earnings in the corporation for a couple of years, she still had to file corporate tax returns and financial statements, so she decided to dissolve the business.

Then I decided to come back to Toronto and consult again with Royal Bank of Canada, so that is what this act is for, to reopen my corporation.

**The Chair (Mr. Michael Prue):** Okay. I thank you very much. Any further comments from Mr. Caplan? None?

**Mr. David Caplan:** None.

**The Chair (Mr. Michael Prue):** Are there any other interested parties to this application? Seeing none, parliamentary assistant, are there any comments from the government?

**Mr. Dave Levac:** No.

**The Chair (Mr. Michael Prue):** No comments from the government. Are there any questions that the committee members have of the applicant? No questions—

**Mr. Paul Miller:** Just one. Is this a singular operation or are there partners?

**Ms. Sherry McNally:** No, there's just myself. I'm the president of the company.

**Mr. Paul Miller:** So you're a one-lady show.

**Ms. Sherry McNally:** That's it.

**Mr. Paul Miller:** Okay.

**The Chair (Mr. Michael Prue):** Any other questions? Seeing none, are the members ready to vote?

*Interjection.*

**The Chair (Mr. Michael Prue):** You have a question?

*Interjection:* No.

**The Chair (Mr. Michael Prue):** All right. Then we'll proceed right to it.

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Thank you very much. Case finished.

**Ms. Sherry McNally:** Thank you so much.

**The Chair (Mr. Michael Prue):** I bet you can't believe how fast it was.

URSULINE RELIGIOUS  
OF LONDON ACT (TAX RELIEF), 2011

Consideration of Bill Pr43, An Act respecting the Ursuline Religious of the Diocese of London in Ontario.

**The Chair (Mr. Michael Prue):** We now have Bill Pr43, An Act respecting the Ursuline Religious of the Diocese of London in Ontario. Mr. Hoy, the floor is yours.

**Mr. Pat Hoy:** Good morning, committee, and thank you for hearing about Bill Pr43. I'm joined by two guests who can explain what this is about and answer any questions. They'll introduce themselves for Hansard.

**The Chair (Mr. Michael Prue):** Okay. You have no other comments other than that? That's it? Fine, thank you very much. If the applicants could introduce themselves for the purpose of Hansard by full name.

**Mr. Jerry O'Brien:** I'm Jerry O'Brien, a lawyer acting on behalf of the Ursuline Sisters, and this is Sister Joan Stafford, who is with me today.



**The Chair (Mr. Michael Prue):** Terrific. The floor is yours.

**Mr. Jerry O'Brien:** Thank you. I believe the material in our compendium spells out the situation, and I think this is a problem that's come to this committee on other occasions, involving Hamilton, Peterborough and London.

Basically, the sisters' mother house has been a place of spiritual growth and education since 1860. It has always been tax-exempt, and when they sought to move they inquired of MPAC and the city of Chatham about whether their tax-exempt status would continue. They were actually told that it would. Then, after they completed the new construction of their smaller building, unfortunately, in ways that seem more mysterious than we can quite figure out, MPAC took a different position and the mother house became taxable. So this legislation is simply to restore to them the exemption they've had since 1860 so they can continue on with their good work.

We'd like to thank very much Mr. Hoy's office and his staff for their assistance in dealing with this problem, the clerk's office and staff, and Susan Klein for her efforts in helping us through this process. I can tell the Chair and the members that it has been a very confusing and complex situation for the sisters. They've tried to do the right thing all along, but this seems to be the only way that they can correct the situation.

Subject to any questions that you might have, that's all we have to say.

**The Chair (Mr. Michael Prue):** I just have to ask, though—I don't see anyone in the room to do it, but it has to be asked: Are there any other interested parties to this item, anyone else to speak?

Seeing none, parliamentary assistant, are there any comments from the government?

**Mr. Dave Levac:** I'll pass it over to you, Mr. Leal. I need to say something first, but I'll pass it over. I'll yield the floor once I make my comments.

The government does not have any objections to this. They note that the municipality is in favour. Working together, we believe that this is the appropriate direction to take to make sure that the sisters receive the work that they do, and we are thankful for the work that they do in the community.

I'll pass it over to Jeff.

**Mr. Jeff Leal:** There is a pattern now across the province—I think this may have been number 4 or 5: A number of religious orders have built rather large convents at one time, and as things change, they get into building new, smaller quarters.

From an MPAC perspective, I wonder: Does this committee send a note through to the president of MPAC, Mr. Carl Isenburg, to suggest that a pattern has developed and maybe MPAC should be looking at this, perhaps in the light of: We come here and we get the change made, but maybe they should make the change from their perspective? There could be several down the road that would find themselves in the same position, and then the sisters have to engage distinguished lawyers to represent

them. I wonder if there's a way that we could resolve this through some notification to Mr. Eisenberg, the president of MPAC. It's just a thought, sir.

**The Chair (Mr. Michael Prue):** I think so, but then we are usurping the rights of the municipality and of the school boards who have to comment on it first, so I don't know how we get around that.

If you want to make such a motion to the committee, I'm sure, at the conclusion of this, we could consider that debate. But, again, I don't know how we get around all of the legal niceties with the municipality, the school board, the interested parties—

**Mr. Jeff Leal:** I can't speak for other municipalities, but I can speak for the city of Peterborough. When they saw that, they rubber-stamped a motion to get this approved, because they sensed that this was just the right thing to do. But I can't speak for other communities on this.

**The Chair (Mr. Michael Prue):** And we would not see those other communities that said no.

**Mr. Jeff Leal:** Fair enough.

**The Chair (Mr. Michael Prue):** Mr. Caplan.

**Mr. David Caplan:** As I understand it, this special act allows the city of Chatham-Kent to pass a bylaw. Have they done so already, or are they intending to after this has passed?

**Mr. Jerry O'Brien:** They passed a motion unanimously that agreed that this legislation could go forward, and they've indicated their intention to us that they will pass such a bylaw.

**Mr. David Caplan:** So they'll pass such a bylaw. Okay.

**Mr. Jerry O'Brien:** And the school boards have both agreed to it, as well.

**The Chair (Mr. Michael Prue):** I have Mr. Martiniuk and then Mr. Miller.

**Mr. Gerry Martiniuk:** Perhaps Mr. O'Brien could refresh our memories in regard to the Assessment Act and the particular sections that MPAC seems to be caught up on.

**Mr. Jerry O'Brien:** It's not actually clear to us, because they've told us different things. Originally, they told us that the tax exemption would continue with the move, and then, after the building took place and the move took place, they actually taxed the residential portion and left the mother house alone. When the sisters called and said, "No, we should be paying tax on the residential portion," they said, "No, no, you're tax-exempt there." Then, all of a sudden, they got a bill—without any explanation whatsoever—for three years in arrears for the mother house. I can't actually explain to you their conduct, because I don't understand it.

**Mr. Gerry Martiniuk:** Let my position be clear: I support this bill, and hopefully it will pass today.

I would also support, however, a letter from this committee, if a motion might be made, requesting clarification from MPAC and their problem. Then, once we have that, perhaps we can do something fruitful.



0910

**The Chair (Mr. Michael Prue):** Mr. Miller.

**Mr. Paul Miller:** Imagine that—government getting confused, not knowing what the left hand and the right hand are doing. I can't believe it.

Anyways, this is obviously a no-brainer. It's been around for a hundred years or more, 200 almost, so I have no problem with this. I don't know why they put people through aggravation like this, to have to come all the way to Toronto.

I've said this before on this committee. Some of the routine things are like, two seconds, boom, done. There must be something we can do to expedite these processes so that we don't have to put people through time, aggravation and worry. They come here thinking, "Oh my God, I'm in big trouble," and it turns out to be a routine situation.

I'm sure I agree with the other two parties that we should be able to do something to correct this imbalance.

**The Chair (Mr. Michael Prue):** Okay. Understanding that Mr. Leal may have a motion, I think we should have the motion separate and apart from this bill.

**Mr. Jeff Leal:** Absolutely. I'm not trying to complicate—

**The Chair (Mr. Michael Prue):** Are there any other questions on this bill? Seeing no other questions, are the members ready to vote?

Okay, I'll just make sure I get everything that needs to happen here.

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall section 4 carry? Carried.

Shall section 5 carry? Carried.

Shall section 6 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

**Mr. Gerry Martiniuk:** Could I make a motion?

**The Chair (Mr. Michael Prue):** Surely. Mr. Martiniuk.

**Mr. Gerry Martiniuk:** I move that the fees paid by the applicant be waived.

**The Chair (Mr. Michael Prue):** Are you requesting—

**Mr. Gerry Martiniuk:** I think we've done that in—

**The Chair (Mr. Michael Prue):** We have, but I meant that you have to request it first. Are you requesting that the fees be waived?

**Mr. Gerry Martiniuk:** Yes.

**The Chair (Mr. Michael Prue):** Okay, there it is. I would be surprised if you said no.

If I can, Mr. Martiniuk, I'll give you the wording for that. You'd have to move that the committee recommend that the fees and the actual cost of printing at all stages be remitted on Bill Pr43, An Act respecting the Ursuline Religious of the Diocese of London in Ontario. Do you so move that?

**Mr. Gerry Martiniuk:** I so move.

**The Chair (Mr. Michael Prue):** All right.

**Mr. Tony Ruprecht:** I want to second that.

**The Chair (Mr. Michael Prue):** We don't need a seconder in committee.

Any discussion on the motion to waive the fees? No discussion.

All those in favour? Agreed. Fees are waived.

**Mr. Gerry Martiniuk:** Thank you very much.

**The Chair (Mr. Michael Prue):** Further motions?

## COMMITTEE BUSINESS

**The Chair (Mr. Michael Prue):** We are now finished with this, so we will go on to other business. Mr. Leal, you have a motion.

**Mr. Jeff Leal:** Yes, Mr. Chair. I think it would be appropriate, to ask the present CEO of MPAC, Mr. Carl Isenburg, to look at these provisions that deal with—if I can get some assistance, maybe, from across the aisle; I'm trying to get the right word here—convent houses or—

**The Chair (Mr. Michael Prue):** I think "religious orders."

**Mr. Jeff Leal:** Religious orders. That's it.

Just a bit of a background, and I'm sure there are people around here that have had municipal experience: In the past, prior to the creation of MPAC, when the assessment function was handled by the Ministry of Finance, you could go to your local assessment office in Peterborough. They had staff there, and they would go out and look at something and say, "Yes, this has had a historical thing. We will recommend to the powers that be that it continue." It seems to me that when we moved into MPAC, how it was set up, a lot of the local folks left and took early retirement. The new corporation was created, and a lot of them came from other spots from across Ontario that didn't have this historical knowledge and couldn't give a field decision. When you look at particularly the four or five that have come forward related to religious orders, that certainly has been the situation.

If we could alert Mr. Isenburg to take a look at that, I think it would be particularly helpful.

**The Chair (Mr. Michael Prue):** The motion is? We need a wording; we don't need a speech. We need the wording so we can vote on it.

**Mr. Jeff Leal:** That we send a letter to the CEO of MPAC, Mr. Carl Isenburg, to look at situations related to religious orders in Ontario when they move from one home to another, often due to downsizing.

Sorry about the speech, sir.

**The Chair (Mr. Michael Prue):** Have you got that? Just want to make sure.

**The Clerk Pro Tem (Sylvia Przedziecki):** That the committee send a letter to the current CEO of MPAC to look at provisions that deal with religious orders when they move from one home to another, often due to downsizing?



**Mr. Paul Miller:** I don't think that's going to cover it.

**Mr. Jeff Leal:** Paul, maybe you can help me here?

**Mr. Paul Miller:** That's confusing. I think you're better to explain the situation, that we constantly have religious orders coming to this committee—

**Mr. Jeff Leal:** That's better.

**Mr. Paul Miller:** —because of the disparity between the communication between MPAC and the community, and that we would like this situation looked at and rectified so that this committee does not have to deal with these common occurrences.

**The Chair (Mr. Michael Prue):** I'm not sure we should do that. I know what is being asked here. How about if you just say that the Chair will write the letter on behalf of the committee?

**Mr. Jeff Leal:** For sure, that's good.

**Mr. Gerry Martiniuk:** Yes, but subject to—I think it's not enough. I get the feeling that the organization does not have the power to alleviate the problem. I would therefore suggest that we end it off by saying that we request that the Chair advise this committee as to any possible amendments to any statutes that may alleviate the problem.

**Mr. Jeff Leal:** Perfect.

**Mr. Paul Miller:** I'm seeing the old lawyer coming out in you again, Gerry.

**The Chair (Mr. Michael Prue):** Okay. We have the motion and we have the general discussion. I will write the letter or the clerk will write the letter. I will sign it and we will—

**Mr. Jeff Leal:** That's all I'm looking for, sir.

**The Chair (Mr. Michael Prue):** Mr. Martiniuk, the clerk wants a little bit of clarification—

**The Clerk Pro Tem (Sylvia Przedziecki):** Can you repeat the wording or the sense?

**The Chair (Mr. Michael Prue):** I think we can get it later from the transcript.

Mr. Ruprecht?

**Mr. Tony Ruprecht:** I recall that last year, we made a similar motion to that effect. What happened to that?

**Mr. Gerry Martiniuk:** Not to MPAC.

**Mr. Paul Miller:** I believe I did that.

**The Chair (Mr. Michael Prue):** I think similar statements were made, but I don't believe there was a request to write to MPAC.

**Mr. Tony Ruprecht:** Not to MPAC, no. But I think either Paul or I made the motion that we should look at that in terms of cutting some of the red tape. There was no follow-up on it. We had a long discussion about this.

**Mr. Gerry Martiniuk:** It wasn't about the religious aspects. That was about some lawyer charters—

**Mr. Paul Miller:** The thing that, yes—coming here all the time for two minutes.

**The Chair (Mr. Michael Prue):** If I could, we do have a letter, and everyone has that letter on your desk today, from the minister, Harinder S. Takhar, dated December 23, in which he says they're looking at the issue, Mr. Ruprecht, that you raised. But that issue was not on religious orders and we did not write to MPAC; we wrote to the minister, and the minister has responded that they're looking at it.

**Mr. Paul Miller:** That was on notices of revival.

**The Chair (Mr. Michael Prue):** Yes.

**Mr. Dave Levac:** When you reach the point where you've crafted the letter, would it be distributed to the committee members before we send it out?

**The Chair (Mr. Michael Prue):** I can do that if that is the request. I can do that at our next meeting. Before it is sent out, would the committee like to see it?

**Mr. Dave Levac:** I think what's happened is we've had a generalized discussion and we're trying to capture the feel of what everyone is agreeing with, but until we see the end result, I think it would be appropriate to see it just before we send it out so that we've all agreed that it's been captured the way in which Gerry mentioned, and I know that Paul and Jeff said some things that would be germane to this. If we can capture it and give it to you as the responsibility—capture what we're saying and show us a draft, and then we send it out.

**The Chair (Mr. Michael Prue):** All right. When is our next meeting? Any idea? Are we having one next Wednesday or no?

**The Clerk Pro Tem (Sylvia Przedziecki):** Yes.

**The Chair (Mr. Michael Prue):** We're having one next Wednesday, so hopefully we can have a draft on the desk for the meeting as well. We'll include that as an additional item.

Everybody's happy with that? Anything else? Meeting adjourned.

*The committee adjourned at 0919.*





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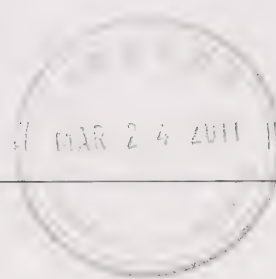
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## Legislative Assembly of Ontario

Second Session, 39<sup>th</sup> Parliament

## Assemblée législative de l'Ontario

Deuxième session, 39<sup>e</sup> législature

# Official Report of Debates (Hansard)

Wednesday 9 March 2011

# Journal des débats (Hansard)

Mercredi 9 mars 2011

**Standing Committee on  
Regulations and Private Bills**

**Comité permanent des  
règlements et des projets  
de loi d'intérêt privé**

Chair: Michael Prue  
Clerk: Katch Koch

Président : Michael Prue  
Greffier : Katch Koch



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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE  
ON REGULATIONS  
AND PRIVATE BILLS

Wednesday 9 March 2011

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES  
RÈGLEMENTS ET DES PROJETS DE LOI  
D'INTÉRÊT PRIVÉ

Mercredi 9 mars 2011

*The committee met at 0901 in room 151.*

**The Chair (Mr. Michael Prue):** I call the meeting to order. The bills we're going to deal with today are in reverse order.

## 1312510 ONTARIO LTD. ACT, 2011

Consideration of Bill Pr45, An Act to revive 1312510 Ontario Ltd.

**The Chair (Mr. Michael Prue):** The first one is Bill Pr45, An Act to revive 1312510 Ontario Ltd. I'd ask Mr. Leal to come forward.

**Mr. Jeff Leal:** Mr. Chair, I'm pinch-hitting for Mr. Dickson this morning. Mr. Dickson advised me that he has to be away this morning.

This bill, to revive 1312510 Ontario Ltd., is kind of a housekeeping matter. There's nothing controversial about this. On Mr. Dickson's behalf, I hope it moves forward here in committee today. Anwar can certainly provide any additional background on this particular matter.

**The Chair (Mr. Michael Prue):** Okay. You are Anwar Sarwari?

**Mr. Anwar Sarwari:** Yes.

**The Chair (Mr. Michael Prue):** Just for the record; then, the floor is yours.

**Mr. Jeff Leal:** Go ahead, sir.

**Mr. Anwar Sarwari:** We had this corporation since 1998. I wasn't aware that the corporation had ever been cancelled. We did file all the taxes for the past 12 years. Just two years ago, when I went to change some names on the corporation, they told me the corporation had been cancelled. After that, I did all the processes that were required.

**The Chair (Mr. Michael Prue):** I thank you very much. Are there any other interested parties to this bill? Does anyone else wish to speak? No one? Parliamentary Assistant, any comments?

**Mr. Lou Rinaldi:** Yes, Chair. We're certainly not opposed to this particular bill moving forward.

**The Chair (Mr. Michael Prue):** Committee members, any questions? Mr. Miller.

**Mr. Paul Miller:** Yes, maybe you could help me with this, Mr. Sarwari. It says that the corporation was dissolved on August 31, 1998, for failure to pay the required fee on incorporation. Did you have a lawyer involved with this, or did you just not pay it?

**Mr. Anwar Sarwari:** Actually, the accountant did the incorporation. He was the one who wrote the cheques, so—

**Mr. Paul Miller:** Here we go again: accountants and lawyers screwing up for this committee again. So it wasn't your fault, basically?

**Mr. Anwar Sarwari:** No, I didn't even know for what reason they cancelled it.

**Mr. Paul Miller:** Thank you.

**The Chair (Mr. Michael Prue):** Any other questions? Seeing no other questions, are the members ready to vote? I don't have the sheet, so let's just do it this way. Okay. Thank you.

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Thank you very much. The case is over.

ONTARIO BARBER  
ASSOCIATION ACT, 2011

Consideration of Bill Pr44, An Act respecting The Ontario Barber Association.

**The Chair (Mr. Michael Prue):** We are next calling forward Bill Pr44, An Act respecting The Ontario Barber Association. Ms. DiNovo, the floor is yours.

**Ms. Cheri DiNovo:** Thank you, Mr. Chair and committee members. It's my pleasure to introduce Sean Gibson, who is program director here. We're dealing with the Ontario Barber Association. This is Bill Pr44, as you've just heard. I certainly haven't heard any controversy regarding this, but of course, we're open for questions.

**The Chair (Mr. Michael Prue):** Mr. Gibson, do you have any statements to make?

**Mr. Sean Gibson:** None other than that what we're requesting is just that barbers, through the association, be recognized as registered barbers and be able to use the names of registered barbers, student barbers and so forth, as in the bill.

**The Chair (Mr. Michael Prue):** Are there any other interested parties to this bill? Are there any other people who wish to speak in the room? Not seeing any, Parliamentary Assistant, any comments from the government?



**Mr. Lou Rinaldi:** Sure. Thanks very much for being here this morning. Just a question: You're probably aware that in 2009, the government passed some legislation to create an Ontario College of Trades. Did your organization take part in that process at all?

**Mr. Sean Gibson:** Actually, yes. We sat with Kevin Whitaker and Michael Uhlmann. That was on January 9, 2009. The Ontario Barber Association sat with him and represented as stakeholders of barbers in the province of Ontario, and gave them our findings. Actually, we were referred by Mr. Milloy to speak to Mr. Whitaker with respect to that.

**Mr. Lou Rinaldi:** So the discussions you had at that time, did that not satisfy your vision of what the barbers should be?

**Mr. Sean Gibson:** Actually, we didn't have any further correspondence with Mr. Whitaker since giving him the information for that. Thereafter, nothing really came of it, so it didn't have any teeth per se.

**Mr. Lou Rinaldi:** Were you able to make a presentation to the committee when the legislation was debated?

**Mr. Sean Gibson:** No, we weren't.

**Mr. Lou Rinaldi:** You weren't. Okay. Have you looked at the legislation, because that body is being created as we speak, as to whether that process satisfied the needs of your association?

**Mr. Sean Gibson:** Mr. Whitaker, in his words, said, "Giving industry a key role in governing the trades, from promotion to regulation, is vital to strengthening Ontario's apprenticeship and skilled trades system." That's something that we took into consideration, that embodies what we want or what we're looking for as a group or as an association.

**Mr. Lou Rinaldi:** I guess the point I'm trying to make here is—first of all, I commend you for taking this role to recognize your specific trade. I guess what I'm a bit confused by is that government—and I believe Ms. DiNovo's party supported it—put a structure in place to be able to deal with apprenticeships and trades, what we call the Ontario College of Trades and Apprenticeship Act. Does that act, which is now being delivered, not address what you're looking for?

**Mr. Sean Gibson:** The challenge with respect to that point is that barbers and hairstylists are completely under the exact same volume. That makes it extremely challenging for a tradesperson to have his identity. There's no anonymity amongst barbers as there is hairstylists. As you can appreciate, there's an extreme difference between the two.

**Mr. Lou Rinaldi:** I don't have to worry about that.

**Mr. Sean Gibson:** No, you're past that stage.

That's where we're trying to draw the light: There is a considerable difference.

**Mr. Lou Rinaldi:** I guess the point that I'm trying to make—to help you out in this scenario—is my understanding is that there are provisions through that piece of legislation to get the ball rolling to achieve it instead of doing something totally separate. My understanding is that there's a framework to try to achieve what you're

trying to achieve. I'm not here to argue against hairstylists and barbers; I'm not an expert. But there might be an opportunity through that college to further what you're trying to accomplish.

**Ms. Cheri DiNovo:** May I say something, Mr. Chair? I'm hearing what you're saying, Lou, on this. What I would suggest is that that's an avenue that Mr. Gibson should certainly go down and check into and maybe get back in touch with the folks involved, but it doesn't really change this. This would then be the body that would be coming under that framework and would be involved in that initiative, but this private member's bill still needs to be in place for them to be able to do that, right? Certainly it's something that the organization should follow up on, but it doesn't negate the need for the organization itself.

0910

**Mr. Lou Rinaldi:** My understanding, though—

**The Chair (Mr. Michael Prue):** If I can, you were being recognized for comments from the government. There have been a lot of questions and I have to open up the floor, because there's going to be questions.

**Mr. Lou Rinaldi:** I'm sorry, Chair.

**The Chair (Mr. Michael Prue):** I did recognize you and you did ask a number of questions, but perhaps there are some other members who have questions. Whether the government has any formal position on this is really what was being asked.

**Mr. Lou Rinaldi:** Sure. The government's position is that we believe there is an avenue through that piece of legislation for them to try to get to where they're trying to go. That's the position we're taking, Chair.

**The Chair (Mr. Michael Prue):** Okay, then, questions? Others have questions. Mr. Miller.

**Mr. Paul Miller:** Obviously, you've been pursuing this for quite a while to get to this position through your organization. This isn't the first time you've tried to go this route?

**Mr. Sean Gibson:** No, we've been very persistent. Since 1999, I believe, we have tried to work and collaborate with the government on different areas, and it's just been a long, arduous process. So we thought it would be best that we kind of move forward.

**Mr. Paul Miller:** My opinion is that they have just recently formed this trades council. Being a former tradesman, I'm well aware of what's going on in different groups. There's no finality right at this point of who's going to sit on that committee. They're going back and forth on that. It's just a new thing. I assume that you took the right avenue by talking to the Ministry of Education. You also talked to two other people, I believe; I forget their names. So it's not like you sat in the background and weren't involved. You wanted some direction. You went to them and they gave you the advice at the time.

**Mr. Sean Gibson:** Yes.

**Mr. Paul Miller:** I don't think this is going to stop that process, because once it becomes law, the organization, if they require them to fill out further papers or do further investigation or further interviews, they can do



it as a body. They fall under the auspices of trades and crafts. So I think what they're doing here today is simply housekeeping and then they want to move on; the body will be able to put requirements on them as an organization if they so desire. But it seems like they were just put on the back burner by the minister at the time, and whoever they were dealing with, and it didn't seem to be important to those people at the time. So why should they be held up? I think this should move ahead.

**The Chair (Mr. Michael Prue):** Further questions?

**Mr. Lou Rinaldi:** If I may.

**The Chair (Mr. Michael Prue):** Mr. Rinaldi.

**Mr. Lou Rinaldi:** Chair, if I just might comment on Mr. Miller's position, and I fully understand. I think the process—and I don't want to use the words “held up.” The whole apprenticeship in trades has been not very clear in a lot of trades, and you and I agree on that, I think. That's why the government moved, back in 2009, to put a framework in place. So, now that we have a framework in place to try to achieve some of those things, obviously at their request—I don't believe it fell on deaf ears, but there was a process being established, and while the process was being established, obviously there haven't been any decisions on any other trades when it came to apprenticeships and all those other things that were left up in the air. So you're right: We're not quite there yet. As a matter of fact, one of my suggestions was that as we're implementing that board for the Ontario College of Trades and apprenticeships, there might be an opportunity for them to solicit and talk to those folks, or even become a board member or try to become a board member as the process comes to fruition.

The challenge for government is, why would we do something singular while a process is being established?

**Mr. Sean Gibson:** Well, we still look forward to working with the government on this. It's just this is indicative of itself as a specific issue. We're still open to working together, but we'd like to move forward in this direction with respect to this specific bill.

**Mr. Paul Miller:** Mr. Chair?

**The Chair (Mr. Michael Prue):** Further question, Mr. Miller?

**Mr. Paul Miller:** With all due respect to the government, they're trying to establish a system here. They're trying to have their own identity. That's what they are doing here. They're not challenging the government. They're not saying, “We won't follow the rules that the trades and craft put down.” They've been looking for a designation for a long time, and that's all this is. They want to be able to—who better to administer any disciplinary action than the barbers' association itself? Because I certainly wouldn't know when a barber screwed up, until I looked in the mirror, I guess, unless he cut me. But the bottom line is, they should be able to govern their own organization. Even the board of trades and crafts are not going to—they are going to report to them, but they're not going to make the final decision. Like you said, Lou, whoever sits on the board representing the barbers will probably lead that committee on any

decision. They're simply looking for designation, and they've been after it for a long time. I don't think that's a problem, because it is a craft, and I really feel that they deserve this.

**The Chair (Mr. Michael Prue):** Okay. We're tending now to debate. Are there any further questions of the applicants?

**Ms. Cheri DiNovo:** Yes. Further to the comments made by the parliamentary assistant, who would be part of the negotiation process if not this barbers' association? If you don't have the barbers' association, who is going to take part in the negotiations with the government? Essentially what you're doing here is step one, so that this can then move forward so that there is an entity to negotiate regarding any framework that the government sets up. Otherwise, how is the government going to deal with barbers, period? Just pick a barber they happen to like and make them the spokesperson? It seems to me that this is the first step before you can have even a negotiation, and clearly Mr. Gibson has already engaged in that, so he is already being recognized by the powers that be and the bureaucrats involved as being that spokesperson. This is just giving him the right to continue to do so.

**The Chair (Mr. Michael Prue):** Okay. Those being the questions, we can proceed to the vote, unless there's general discussion. Is there—

**Mr. Lou Rinaldi:** No.

**The Chair (Mr. Michael Prue):** Then let's proceed to the vote and see what happens.

Shall section 1 carry?

**Interjection:** Carried.

**The Chair (Mr. Michael Prue):** Carried? I didn't hear—

**Mr. Lou Rinaldi:** No, no.

**The Chair (Mr. Michael Prue):** Okay. You have to say no, like up in the House. If you don't want it to carry, I have to hear a no.

Shall section 1 carry?

**Mr. Lou Rinaldi:** No.

**The Chair (Mr. Michael Prue):** I heard some noes. All those in favour of having section 1 carry? Opposed? That is defeated.

Shall section 2 carry?

**Mr. Lou Rinaldi:** No.

**The Chair (Mr. Michael Prue):** I heard some noes. All those in favour? Opposed? That is defeated.

Shall section 3 carry?

**Mr. Lou Rinaldi:** No.

**The Chair (Mr. Michael Prue):** I heard some noes. All those in favour? Opposed? That is defeated.

Shall section 4 carry?

**Mr. Lou Rinaldi:** No.

**The Chair (Mr. Michael Prue):** I heard a no. All those in favour? All those opposed? That is defeated.

Shall section 5 carry?

**Mr. Lou Rinaldi:** No.

**The Chair (Mr. Michael Prue):** Okay. All those in favour? Opposed? That does not carry.

Shall section 6 carry?



**Mr. Lou Rinaldi:** No.

**The Chair (Mr. Michael Prue):** I heard a no. All those in favour? Opposed? That is defeated.

Shall section 7 carry?

**Mr. Lou Rinaldi:** No.

**The Chair (Mr. Michael Prue):** I heard a no. All those in favour? Opposed? That is defeated.

Shall section 8 carry?

**Mr. Lou Rinaldi:** No.

**The Chair (Mr. Michael Prue):** All those in favour? Opposed? That is defeated.

Shall section 9 carry?

**Mr. Lou Rinaldi:** No.

**The Chair (Mr. Michael Prue):** All those in favour? Opposed? That is defeated.

Shall section 10 carry?

**Mr. Lou Rinaldi:** No.

**The Chair (Mr. Michael Prue):** All those in favour? Opposed? That is defeated.

Shall section 11 carry?

**Mr. Lou Rinaldi:** No.

**The Chair (Mr. Michael Prue):** All those in favour? Opposed? That is defeated.

Shall section 12 carry?

**Mr. Lou Rinaldi:** No.

**The Chair (Mr. Michael Prue):** All those in favour? Opposed? That is defeated.

Shall section 13 carry?

**Mr. Lou Rinaldi:** No.

**The Chair (Mr. Michael Prue):** All those in favour? Opposed? That is defeated.

Shall section 14 carry?

**Mr. Lou Rinaldi:** No.

**The Chair (Mr. Michael Prue):** All those in favour? Opposed? That is defeated.

Shall section 15 carry?

**Mr. Lou Rinaldi:** No.

**The Chair (Mr. Michael Prue):** All those in favour? Opposed? That is defeated.

Shall section 16 carry?

**Mr. Lou Rinaldi:** No.

**The Chair (Mr. Michael Prue):** All those in favour? Opposed? That is defeated.

Shall section 17 carry?

**Mr. Lou Rinaldi:** No.

**The Chair (Mr. Michael Prue):** All those in favour? Opposed? That is defeated.

Shall the preamble carry?

**Mr. Lou Rinaldi:** No.

**The Chair (Mr. Michael Prue):** I heard a no. All those in favour? Opposed? That is defeated.

Shall the title carry?

**Mr. Lou Rinaldi:** No.

**The Chair (Mr. Michael Prue):** All those in favour? Opposed? That is defeated.

Everything's been defeated, so I don't think I have to ask, "Shall the bill carry?" It can't carry; there's nothing there. Do I report the bill, that it didn't carry? Shall I recommend that this not be reported?

0920

**Mr. David Caplan:** No.

**The Chair (Mr. Michael Prue):** I have to do something with the bill. I'm supposed to report what happens in committee to the House. What is the exact wording, Madam Clerk? This happens rarely in this committee.

**Mr. Sean Gibson:** I saw this coming a long time ago. It's not a problem.

**The Chair (Mr. Michael Prue):** Shall the bill not be reported to the House?

**Mr. Paul Miller:** No, you can't do that.

**The Chair (Mr. Michael Prue):** I have to do this. I'm advised by the Clerk, and I know that—I'll just ask it the other way.

Shall I report the bill to the House? And if you don't want me to, then you have to say no.

*Interjections.*

**The Chair (Mr. Michael Prue):** I heard a yes.

All those in favour of me reporting this bill to the House? Opposed? Okay, I will not report it to the House.

Sorry, sir.

**Mr. Sean Gibson:** Not a problem. God bless you guys. Thank you for your time, and I'll definitely see you soon. Take care.

## COMMITTEE BUSINESS

**The Chair (Mr. Michael Prue):** Item number 3 on the agenda is the consideration of the draft correspondence to the Municipal Property Assessment Corp., MPAC, that we discussed at our last—

**Mr. Gerry Martiniuk:** Chair?

**The Chair (Mr. Michael Prue):** Mr. Martiniuk.

**Mr. Gerry Martiniuk:** I'm just going to suggest—it asks them to clarify it, but it doesn't say to whom. I would prefer, in the very end paragraph, rather than saying, "I thank you in advance for your attention to this matter," that we say, "We look forward to receiving your reply." That's polite enough.

**The Chair (Mr. Michael Prue):** So we don't thank him. We just say, "We look forward to receiving your reply"? Or do we add the "thank you"?

**Mr. Gerry Martiniuk:** You can thank him—if he wants. It just fits in nicely to ask him for his reply.

**The Chair (Mr. Michael Prue):** Okay.

**Mr. Rick Johnson:** "Prompt reply"?

**Mr. Gerry Martiniuk:** No. I don't think this committee can order anybody like that, so that's why I framed it in a very polite manner.

**The Chair (Mr. Michael Prue):** Any other changes or recommendations to the letter?

**Mr. Jeff Leal:** I think it's excellent. I think it captures the points made by Mr. Miller and Mr. Martiniuk and myself last week.

**Mr. Kim Craiton:** I have one comment. I thought the intent was to tell them we want something done, so why don't we just tell them that we want them to find a solution so that it doesn't come back here? Otherwise they'll just come back and say, "This is the way it goes. Thanks

for the letter. Nice talking to you." That would be my comment.

**Mr. Gerry Martiniuk:** Hopefully he'll refer to the bill and say, "I'm bound to do it because of such-and-such," and then we can write to the minister. Wouldn't that be the procedure?

**The Chair (Mr. Michael Prue):** I think Mr. Martiniuk said that the motion be made requesting clarification from MPAC—and their problem. What we need to find out is why MPAC has this particular problem, first.

Mr. Leal?

**Mr. Jeff Leal:** Yes, I think Mr. Martiniuk is absolutely right: We send it in and if we get the response back, Mr. Isenburg will identify the particular section that he's dealing with. I've dealt with Carl before. He may suggest, as a follow-up to the Minister of Finance, where a change needs to be made to look after this par-

ticular situation for religious orders in the province of Ontario. That's the scenario that I see as to how this should be handled.

Gerry, is that—

**Mr. Gerry Martiniuk:** Yes, that's exactly what I see.

**The Chair (Mr. Michael Prue):** Okay, we're getting into discussion here. Can I have a motion for me to sign the letter as amended and send it off? Mr. Leal?

**Mr. Jeff Leal:** So moved.

**The Chair (Mr. Michael Prue):** So moved? Okay, any discussion on that? It will contain that amendment, as suggested by Mr. Martiniuk.

All those in favour? Opposed? That's carried. It will be sent today.

This brings us to the last item, which is now into closed session, so anybody who's not supposed to be here will have to leave—the one poor gentleman at the back.

*The committee continued in closed session at 0928.*



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Second Session, 39<sup>th</sup> Parliament

**Assemblée législative  
de l'Ontario**

Deuxième session, 39<sup>e</sup> législature

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Mercredi 23 mars 2011

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## LEGISLATIVE ASSEMBLY OF ONTARIO

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE  
ON REGULATIONS  
AND PRIVATE BILLSCOMITÉ PERMANENT DES  
RÈGLEMENTS ET DES PROJETS DE LOI  
D'INTÉRÊT PRIVÉ

Wednesday 23 March 2011

Mercredi 23 mars 2011

*The committee met at 0902 in room 151.*ONTARIO BARBER ASSOCIATION ACT,  
2011

Consideration of Bill Pr44, An Act respecting The Ontario Barber Association.

**The Chair (Mr. Michael Prue):** We'll call the meeting to order, a quorum now being present.

We have two items. The first one is a relatively quick item, and that has to do with the bill we discussed last time, Bill Pr44, An Act respecting The Ontario Barber Association. All of the votes were taken correctly, save and except the last one. If the members will remember, I asked, "Shall the bill not be reported?" There was some discussion about whether that was the right wording, and we ended up voting another way. So what I am required to do, and what the clerk has suggested, is that the Chair shall put the question, and the question must be, "Shall I report that Bill Pr44 be not reported to the House?"

I'm asking the members of the committee for their opinion on that. Shall I report that the bill, Bill Pr44, be not reported to the House? Is there agreement on that?

**Mr. Paul Miller:** Fine, Mr. Chairman. They didn't want it to go to the House, so certainly, I am agreed that you can tell them that they didn't want it to go to the House. That's fine.

**The Chair (Mr. Michael Prue):** Mr. Rinaldi.

**Mr. Lou Rinaldi:** No, that's fine—answer my question; I'm ready.

**The Chair (Mr. Michael Prue):** It's just that I could not report the last time, and so it has not been reported, what happened. What I have to say is—and I'll say it again—"Shall I report that Bill Pr44 be not reported to the House?" Does the committee agree?

**Mr. Paul Miller:** No.

**Mr. Lou Rinaldi:** Mr. Chair, just for clarification—I'm a bit confused with what you just read.

**The Chair (Mr. Michael Prue):** All right. I will read the clerk's entire message. I didn't think it was necessary, but here it is, the entire message from the clerk's department:

"Bill Pr44, An Act respecting The Ontario Barber Association

"Bill Pr44 is still before the committee because at its last meeting the committee voted not to report the bill to

the House. The committee has an obligation to report to the House. SO 110(c) states: 'A standing or select committee to which a bill has been referred by the House shall be empowered to report the same with or without amendments or to report that the bill be not reported.' If all the sections of the bill have been defeated, as is the case with Bill Pr44, the Chair must put the question, 'Shall I report that the bill be not reported?' The Chair shall put the question, 'Shall I report that Bill Pr44 be not reported to the House?'"

So that's the way we should have dealt with it. We did not, in the end, use that sentence.

*Interjections.*

**The Chair (Mr. Michael Prue):** All right. I've had a request that we put this to a vote—

**Mr. Paul Miller:** Can I have a recorded vote, please?

**The Chair (Mr. Michael Prue):** And on a recorded vote. Shall I report that Bill Pr44 be not reported to the House?

## Ayes

Craitor, Leal, Rinaldi, Ruprecht.

## Nays

Paul Miller, Murdoch.

**The Chair (Mr. Michael Prue):** Then it will be not be reported to the House, as per the vote. That's the end of that item.

## BAHRAM &amp; HAMID INC. ACT, 2011

Consideration of Bill Pr42, An Act to revive Bahram & Hamid Inc.

**The Chair (Mr. Michael Prue):** We go on to the next item, which is Bill Pr42, An Act to revive Bahram & Hamid Inc. The floor is now Mr. Zimmer's.

If we could have, Mr. Zimmer, you recognize the gentlemen that are there with you so that Hansard has a recording of their names.

**Mr. David Zimmer:** My name is David Zimmer, MPP. I'm the sponsor of this private bill.

**Mr. Paul Hancock:** My name is Paul Hancock. I'm the lawyer for the applicants. Bahram Eshghi Mog-



haddam is here today, and Hamid Vahabi Eshghi Ali is supposed to be here today but is possibly caught up in traffic. We're willing to proceed without him being present.

**Mr. Anton Katz:** My name is Anton Katz. I'm the lawyer for the respondents.

**The Chair (Mr. Michael Prue):** You cannot be here at this time. Are you with the respondents as well, sir? If you would please have a seat behind, you will be called after.

**Mr. Anton Katz:** I'm sorry.

*Interjection.*

**The Chair (Mr. Michael Prue):** No, I'm going to follow the rules here.

Are there any other applicants, Mr. Zimmer?

**Mr. David Zimmer:** No.

**The Chair (Mr. Michael Prue):** I don't want respondents.

**Mr. David Zimmer:** No.

**The Chair (Mr. Michael Prue):** No? Okay.

**Mr. David Zimmer:** There are too many lawyers here. That's how they do it in the court; they all line up at once, all with their meters running.

**The Chair (Mr. Michael Prue):** Mr. Zimmer, the floor is yours.

**Mr. David Zimmer:** I'm going to ask the solicitor for the applicants to speak to the matter.

**The Chair (Mr. Michael Prue):** Sir, the floor is yours.

**Mr. Paul Hancock:** Essentially, this bill is intended to revive a corporation, Bahram & Hamid Inc., that was voluntarily dissolved after litigation began by the applicants here. At the time, the applicants were not aware of the legal ramifications of what would occur if the corporation was dissolved.

We're seeking this relief on a number of grounds. The main concern here is that if the litigation proceeds without the corporation being revived, there's a chance that any award to the plaintiffs will go to the crown. There are three other plaintiffs, but there's a possibility that if the judge finds that only the corporation is entitled to relief, then it would escheat to the crown and essentially, it would be a pyrrhic victory.

The other issue, in essence—and I know that my friend is going to make submissions later, but the litigation has ground to a standstill, pending revival. In essence—

**Mr. Tony Ruprecht:** Pending the what?

**Mr. Paul Hancock:** Revival of the corporation. I have produced a summary of what's happened, but essentially—and my friend's an officer of the court, so he can address that as well—they're refusing to proceed, even though there are three other plaintiffs, until this is revived.

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In essence, if the standing committee decides to put this over, consider this longer or whatnot, the plaintiffs will be spinning their wheels in not only the Legislature but also the courts.

Mr. Bahram is here on an entrepreneurial visa from Iran. He's required, under law, to own one third of a qualifying corporation, and he needs the money to invest into that corporation to fulfill his obligations. He's here with his wife and his two children. All we're asking for is essentially to have a chance to at least have his day in court.

This is essentially—my submission is that this is a stall tactic to make the applicants settle. We're making the application under the Arthur Wishart Act; it's a great act. We just want our day in court. At the end of the day, if the defendants are correct, well, they get costs and that's the end of it. We just want our opportunity to have our day in court. That's essentially why we're seeking that this corporation be revived.

**Mr. David Zimmer:** If I might add, just to sort of distil what the counsel has said, there's potential and ongoing litigation under way. That litigation cannot continue because the company was dissolved. The application today is to reinstate the company so that litigation can continue. I take, and we take, no position on the merits of the litigation; the court will sort that out, whatever the answer there is. This is just to enable the company to be revived so that they can continue as a party to the proceedings. Thank you.

**The Chair (Mr. Michael Prue):** Okay. I thank you, gentlemen. Are there any other interested parties?

*Interjection.*

**The Chair (Mr. Michael Prue):** It is now your turn.

**Mr. Bill Murdoch:** Do we get to ask questions?

**The Chair (Mr. Michael Prue):** No, you get to do that in a moment. Okay, just so people know, we ask the interested parties, then the parliamentary assistant, and then questions.

Interested parties?

**Mr. Anton Katz:** Okay. My name is Anton Katz. I'm the lawyer for the respondents. The respondents are Sam Davis, Warren Smagaren, Michele Lown, 2082100 Ontario Inc. and another numbered company. We are here to speak to this bill.

As a preliminary matter, I would point out that I don't entirely accept my friend's recitation of events, the suggestion that we have somehow blocked their action in the courts. I think it's very clear that my friend and I have agreed in the courts to hold the court action in abeyance. That's an agreement. It's not something that has been resisted; it has been agreed to. So to characterize the respondents' actions as being consistent with stall tactics is not fair, in my submission. We've agreed to hold the action in abeyance. I don't think any adverse inference should be drawn based on that.

I have brought my articling student here today. I'd like to invite him to say a few words about this as well.

**The Chair (Mr. Michael Prue):** For the record, if you could give your name so we can—

**Mr. Anton Katz:** Sorry. My name is Anton Katz. My articling student is Grant Wagman.

**The Chair (Mr. Michael Prue):** Mr. Wagman, the floor is yours.



**Mr. Grant Wagman:** Thank you very much. I serve as an articling student under joint articles of clerkship for two principals: Derek Lee, member of Parliament, Scarborough–Rouge River, and Anton Katz, barrister and solicitor, who represents the individuals who are opposed to this private bill before you today.

We have a number of objections to the private bill. Having perused the authorities on the subject matter, when this committee sits, it sits according to the long-held traditions passed down hundreds of years now by the Commons House of the High Court of Parliament from the United Kingdom, and this is a branch thereof. This deals with a private bill. Private bills have their ancient origin in petitioners submitting a petition to the King in Council for redress on equitable grounds. We believe that the grounds here today are not equitable.

This committee sits in two capacities. It sits in a judicial capacity and it sits in a legislative capacity. For a private bill to be passed, it must meet two tests. From a judicial standpoint, the committee weighs the interests between the two parties. From a legislative standpoint, it weighs the interests of public policy. We submit that, on both counts, it fails. But in any event, on either count, the bill fails. We shall be addressing both issues today.

We also have concerns with the way the bill is framed. Having looked at the private bills that have been dealt with by this committee in the past 20 years, this bill stands apart from those that have been dealt with by the committee.

If one looks at the private bills from the last 20 years, there are a couple of bills where legal proceedings were involved. Virtually all other bills were due to an inadvertence by individuals, such as a failure to file a document or where a board of directors has fallen under the minimum number. They were acts of omission. In this particular instance, we take note that the person who dissolved the corporation, in doing so, filed a document required to be filed by regulation. The document has seven sections on less than one and a half pages and it requires a statement that there are no proceedings pending in any court against the corporation, and when that was filed, that statement was false. It was not a mere omission of inadvertence; it was, at the very least, an act of negligence or wilful blindness and possibly fraud.

In attending before a private bill committee, or a Court of Chancery, for that matter—this is an offshoot of the Court of Chancery—there is what is known as the clean hands doctrine: A person applying for relief comes to the court or the committee with clean hands; they have not committed an act which, so to speak, dirties their hands. In this case, we submit that they have by filing a false document.

If this bill passes and these proceedings are placed in transcripts or on the Internet for members of Ontario and, in that regard, all of the world to see, this bill stands for the proposition that not only is ignorance of the law an excuse, but that negligence and wilful blindness is an excuse and filing a false document with the government is an excuse. Come before the Legislature to cure those

defects—no problem. Is that the precedent that this committee wants to put forward? I would suggest no.

The counsel who is representing those in favour of the bill has noted a number of things that I just quickly want to address: The proponent of the bill was not aware of the legal ramifications; that he came to Canada on an entrepreneur visa; and that he is required to run a business. Yes, he did come on an entrepreneur visa, which under federal law means—he submitted this to the government of Canada, certified it, and the government investigated and accepted the evidence that he came here with at least \$300,000 to invest in a business and that in the previous five years he had at least two years of experience managing a business.

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At the time of the dissolution, he had both legal counsel and an accountant. He chose, wilfully, not to consult his legal counsel or his accountant on an important business matter of dissolving the corporation. We submit that that is more than just inadvertence; that that is negligence, and this committee should not clean up that negligence. That would not be appropriate for public policy.

We also note that counsel has indicated that the plaintiffs desire their day in court; that there's no other way that this matter can come before the court. That is not true. The Business Corporations Act specifically indicates that where there is a dissolved corporation, proceedings may continue. There is no need for this bill. It is, in fact, premature. The appropriate timing, if it is to be approved by the committee, would be if the lawsuit was successful, not prior to that. The bill is premature.

We also have a concern with the preamble. We would note there have been, in the last 20 years, a couple of cases where there have been corporations that were dissolved and were seeking revival and there was mention of legal proceedings, but in those situations—for example, one of the most recent, October 27, 2010, Pr41, An Act to revive Tonum Ltd., the preamble specified that “the applicant represents that the corporation was dissolved without considering the fact that the corporation was a plaintiff....” That is not what is submitted in the private bill before you. At the very least, we submit that in a private bill the preamble must include all of the relevant facts. A private bill, unlike a public bill, requires a preamble, and the preamble is required to set out all of the salient facts. If the committee is going to approve the private bill, we submit that it should be in proper form.

We would also note private bill Pr2, Grand Avenue Holdings Ltd. Act from April 9, 2008. The applicants represent that the filings were done without knowledge that an action was pending against the corporation. In this case, the proponents of the bill also indicate that it was done without knowledge. But, factually speaking, a notice from the objectors to this bill—a notice had been given on February 16, 2010, with a statement of defence and a counterclaim, and it wasn't until March 12, 2010, that the proponents of the bill dissolved the corporation. Either they were aware or they were wilfully blind in taking no notice of that. And not only that, but sub-



missions from counsel indicate that he did not become aware until August 2010 that the corporation had dissolved, and then, still, no notice was given to Mr. Katz until October 2010—the delay of not giving any notice. We submit that that's unreasonable. We submit that the delays were on the part of the proponents and that they were according to either wilful blindness or negligence at best, or intent.

We would make mention that the Speaker of the Legislative Assembly ruled in 1991 that the House and its committees are governed not only by the standing orders and the traditions of the House, but the traditions of parliamentary bodies in Canada and throughout the Commonwealth. We take note of David McGee's book, *Parliamentary Practice in New Zealand*. Mr. McGee served as the Clerk of the House for more than 20 years. He is also a Queen's Counsel. He makes it clear in his book: "An important requirement is that the preamble must deal expressly with a point which will be prominent in the consideration of the committee to which the bill is referred: that is, whether its objects could be attained otherwise than by legislation. If they could be, the preamble must state why legislation is preferred."

As I indicated a few moments ago, section 236 of the Business Corporations Act does permit another avenue, and this bill makes no mention of that—

**Mr. Michael Prue:** Sir, before you go on ahead, it's customary we give a few minutes. I don't know how long your presentation is. Certainly in my 10 years here, I have never heard such a detailed presentation in opposition, so I just want to clarify how long this might be.

**Mr. Grant Wagman:** In light of the intimation made by the Chair, I will wrap up fairly quickly in, say, a minute or two.

**The Chair (Mr. Michael Prue):** Proceed, and thank you.

**Mr. Grant Wagman:** We submit, then, that public policy would not be addressed. If we allow this to pass, it would stand as a precedent for the future. If that precedent would be a bad precedent, it would invite—possibly opening the floodgates—people to request revival under this type of situation, which we think is wrong.

However, if the committee does decide to pass this bill, we ask that the preamble state the truth, and that is that the applicants represent that the filing was done without knowledge that an action was pending, that it was done without knowledge—I'm sorry; I meant to refer to the Tonum bill—without considering the fact that the corporation was a plaintiff, without considering the fact that there were proceedings against the proponents of the bill and having filed a false document with the government. We ask that the committee amend the preamble to so reflect the truth. Thank you.

**The Chair (Mr. Michael Prue):** Thank you. First, we deal with the parliamentary assistant. Are there any comments from the government?

**Mr. Lou Rinaldi:** Sure. I guess this is one of those days when I'm happy I'm not a lawyer—no offence to anybody on that end of the table.

We're aware there are legal proceedings, and that's an issue, frankly, that this side of the House is not a party to. We don't want to be involved in that because I think it's the worst thing we could do.

As far as your comments about the legitimacy or the legality of the private bill before us, as far as content, I truly trust that staff from committee and legal staff from government have reviewed this. I take their good judgment to accept what they've allowed to go forward. I just want to make that clear.

0930

**Mr. Tony Ruprecht:** And the Chair.

**Mr. Lou Rinaldi:** And the Chair as well. The Chair has a role to play in this.

Having said that, I'm just going to say that, as I said a minute ago, we certainly don't want to get involved in the legal ramification between the two parties. That's a totally separate issue, and both the Ministry of Finance and the Ministry of Government Services have no objection to dealing with this particular bill before us. We will be supporting it.

**The Chair (Mr. Michael Prue):** We've heard now from the parliamentary assistant. It is now time for questions. Mr. Miller.

**Mr. Paul Miller:** I'm obviously a little concerned with this. The government stands up on a regular basis in the House and says, "We cannot talk about this because it has legal ramifications," and now in committee it seems to have changed. I personally think that this should be cleared up by the courts before it comes before us. I don't want to be responsible for putting either the plaintiff or the respondent in a position where this would have given them an advantage to their situation.

Regardless, I am not privy to all the inside information, but I'm very uncomfortable passing a bill when there's things going on in the court. As you've pointed out, the stalling tactic, if that's what you want to call it—if that's true or not; I'm not a lawyer either—but I'm certainly uncomfortable with the government's decision that they've just made. I personally would feel much better if this was—we shouldn't be dealing with a legal matter at this committee. You gave us a great history lesson there for quite a while on what this committee's supposed to do—thank you very much—but the bottom line is, anything in the courts is to be dealt with in the courts, in my humble opinion.

So I will not be supporting this bill in its present form, because—

**The Chair (Mr. Michael Prue):** This is not the time for debate. This is a time for asking questions. Mr. Murdoch, do you have questions?

**Mr. Bill Murdoch:** Yes, I do. First of all, I do have faith in our staff and that things would be done right. I'm just wondering—there were a lot of, I would think, accusations made there about this. Would it not be better to have somebody in our legal department maybe explain them to us, or—

**The Chair (Mr. Michael Prue):** We have a lawyer here, if you have a question.



**Mr. Bill Murdoch:** Well, if you want. I didn't know whether you wanted to put them on the—or if they want to come back and report. But I really don't understand all that. There was a lot of lawyer mumbo-jumbo there, and I really don't understand it all. So maybe our lawyer, because I trust the people we have working for us, most of the time—not all of the time, but most of the time I do—I mean the whole bureaucracy. Could you maybe explain some of that, then?

**Ms. Susan Klein:** Okay—

**The Chair (Mr. Michael Prue):** Mr. Rinaldi?

**Mr. Lou Rinaldi:** Sorry, just a quick comment to Mr. Murdoch. I have no problem with our legal people explaining, but in the last sitting this committee had a briefing on the technical issue of this. It was done in a closed session because it involved—and I just want to make that clear, that that did happen.

**Mr. Bill Murdoch:** Did we have this information, though, when you had your private meeting?

**The Chair (Mr. Michael Prue):** No, I think not. It was on the technicality of us having the authority to hear this particular case, and nothing was decided. I think it's important that this be done in the open.

Please, if you would advise the committee members?

**Ms. Susan Klein:** I think I can speak to about three points that were raised. One is that this isn't like other private bills you've seen reviving corporations. Mr. Wagman pointed out a couple that we've seen recently. One was in 2001, when the applicant was involved in litigation and the corporation had been dissolved and they needed to be revived. So we've done this before.

It's also very similar to the very many private bills that this committee has seen and carried and the House has passed that revive corporations because they need to deal with property that was left in the corporation's name before it was dissolved.

If you look at the form that the corporation files with the government when they file their articles of dissolution, it's got a few statements in it. It's a preprinted form, and one is that there's no proceedings in any court pending against the corporation. Another is that the corporation has distributed all its property; there's nothing left.

Nonetheless, we see numerous corporations come here, saying, "Oops, we still have property in our name. I know we dissolved this voluntarily. We didn't even check that off." The statement is in there saying, "All our property has been distributed," but they don't.

The individuals who run the corporations, their lawyers, their accountants, everybody slips up, makes mistakes. Whether it's negligence, ignorance, a little bit of sloppiness, these are the people who come before this committee and ask for some recourse. They can't revive the corporation under the administrative rules under the general law. They can't go under the Business Corporations Act and get themselves revived. Many, many, many corporations that are dissolved do get revived that way: They just go back to the counter at the Ministry of Government Services and say, "Please revive us. We failed to

file this. We made a mistake and now we'd like to be revived," and they do.

The ones that come here do not have recourse under the public law. The statute doesn't allow them to be revived administratively, so they come here asking for a benefit, asking for a favour. They've all made mistakes, and this committee usually gives them what they need.

A second point: He talked about unclean hands, coming to committee with dirty hands, and you don't give somebody a benefit if they come to the committee with dirty hands. I always keep that doctrine in mind when I'm looking at these. I don't think I've ever, in 20 years of being counsel to this committee, had to come to you and say, "This corporation is coming to you with dirty hands."

The example I keep in mind is something like a corporation that runs a bawdy house, something like that, a slum landlord. You get objectors coming saying, "This is a terrible landlord. They do this, that and the other." Then, you might say to that applicant, "You know what? You're coming to this committee with dirty hands and we're not going to give you what you're asking." I think a misfiling of articles of dissolution falls far short of meeting that dirty hands doctrine.

The third point: Mr. Wagman was talking about the content of the preamble and asking to modify the preamble. All private bills have preambles; it sets out the facts so that the committee can see what the background is. Certainly the practice here is not that you have to have every single fact in there. You have to have sufficient facts to let you know what the case is. In this case, the facts are stated, that the corporation was voluntarily dissolved; the applicants would like to revive in order to continue legal proceedings. That's sufficient. To add to that, "And we made a big mistake when we filed and we were negligent" is not really necessary for you to know, and we don't—you've seen tons of these private acts come before you, and none of them go into that kind of detail about the cause of their mistakes.

I think those are the main points I wanted to speak to. If you have specific questions—

**The Chair (Mr. Michael Prue):** Questions? Mr. Miller?

**Mr. Paul Miller:** With all due respect to legal counsel, I disagree. I think that when you come before this committee, the Chairman says, "Is there anyone who has a problem with this? Please come forward at this point and discuss it." There's a problem. We usually move ahead if there's no problem, but once again there is a big problem here, because if we are giving advantage to either party by moving this ahead or giving them a legal "up" in the court process, then I think we're part of that system, and I don't think that we should be judge and jury at this committee on what transpires in the courts. I think we should wait till the courts make a decision and then we do the right thing. I don't think that we're in a position today—and, with all due respect to the lawyer, were you aware of the ongoing litigation that you didn't put in the preamble?



0940

*Interjection.*

**Mr. Paul Miller:** No, I'm asking the lawyer. Were you aware of that?

**Mr. Paul Hancock:** I'm sorry?

**Mr. Paul Miller:** Were you aware of the litigation that was not—he said it was not mentioned in the preamble.

**Mr. Paul Hancock:** It is mentioned in the preamble, so I'm a little confused. He doesn't like the way it's worded, and, you know, I submit the preamble to legislative counsel to review. It says right in—I have the preamble right here. If it's not sufficient, then so be it. I know your point is, this is before the courts. One of the issues here is parliamentary privilege, and it's being asserted by the respondents where they're making submissions here that are different than what's in the court.

I can tell you that our position is this matter can proceed while it's still dissolved; their position is different. And if you do not pass this bill, you are giving a legal—well, it's my submission that there is going to be a legal advantage. It's not going to be a disadvantage to anyone; it's going to be an advantage to someone.

**Mr. Paul Miller:** I'd just interject for one last comment. Actually, you have answered my question, because we have a difference of opinion, we have a legality between two law firms that are in disagreement on the structure of the preamble, the content of the preamble. I'm not a lawyer, and I don't feel comfortable making a decision about something that is up in the air, so I will not be supporting this.

**The Chair (Mr. Michael Prue):** Now, I do have to tell all members that if you are not comfortable with the preamble and want to amend it, everything here can be amended by this committee. Members are so advised, that if you want to do that, that can be done.

Further questions? I have Mr. Ruprecht.

**Mr. Tony Ruprecht:** Thank you very much, Mr. Chair.

Since the sponsor is Mr. Zimmer, who also happens to be a lawyer, I'd like to hear from Mr. Zimmer what his opinion is on this matter.

**Mr. Paul Miller:** Mr. Chair, is that a conflict?

**The Chair (Mr. Michael Prue):** No. He is the sponsor; he is entitled to speak here. The question has been asked of Mr. Zimmer.

**Mr. Paul Miller:** But he's representing one side.

**The Chair (Mr. Michael Prue):** He's the sponsor; he's not counsel for the side. I don't know. This question is a difficult one, Mr. Ruprecht, but, Mr. Zimmer, go ahead.

**Mr. David Zimmer:** I know members have the briefing note that was prepared for this committee by the Clerk's office. To help sort things out in your minds, you might want to look at page 3 in the summary. It says:

"The standing orders of the Legislative Assembly prescribe a process by which applications for private

legislation may come before the assembly, and the preconditions that must be met....

"In the present case, the necessary conditions have been met. The application for this private legislation was perfected last fall and the bill was introduced" on such and such a date, "given first reading," and everything is in order.

Then at page 1, "In the present case involving Bill Pr42.... The matter before the committee is a simple request for corporate revival, similar to ones the committee has considered quite routinely." Here is the important point: "The facts and merits of the litigation" involving the two parties "are not part of the private bill application."

Then, further down in the opinion, "this"—referring to this dispute, if you will— "is a matter for the presiding judge in the litigation proceedings to decide."

All we're here for today is to say, "Revive the corporation." It goes back into the judicial system, and a judge will sort out all of the matters, including the matters raised by Mr. Miller, about who said what and who had dirty hands or who had clean hands—all of those things the judge will sort out, and the judge may decide in favour of the party to my right, he may decide in favour of the party to my left, or he may come up with some sort of hybrid solution. But the point is, this bill revives the corporation so the matter can go back before the courts and the judge can sort out all of these things.

Mr. Miller and other members of the committee can't sort out those allegations here. The party to the left has said, "These are the facts," and the party to my left said, "No, these are the facts." But how you sort out those facts is by hearing from the witnesses—what they have to say and what documents they have to present. It's the judge who will hear from the witnesses, pro and con, who will look at all the documents, and then make certain findings.

**The Chair (Mr. Michael Prue):** Mr. Murdoch.

**Mr. Bill Murdoch:** I just want to thank our counsel, because I understood what you were talking about. I've been here and I remember a lot of other bills just like this where we have revived because of certain things.

Mr. Ruprecht took the words out of my mouth. I wanted to ask Mr. Zimmer what he thought, since it was his bill, but I thought he did a very good job there. He said, "Some people are for it, some people are against it." He's with the people, so that was very good that you explained your part.

I think it's just like our other bills as far as the legality, and whether they go to court is not our business.

**The Chair (Mr. Michael Prue):** Mr. Miller.

**Mr. Paul Miller:** It was a nice presentation by Mr. Zimmer and I commend him on his content; however, I disagree.

If we're a committee making a decision on something we know nothing about and we're sending it back to the courts, what's the judge going to do? He'll shake his head and say, "Why would the parliamentary committee send this back to me without dealing with content or



making a decision on reviving a corporation, which may have a negative or positive effect on the respondent or the other person?" Why am I making a decision on something I know nothing about and sending it back to the courts? Why don't they make the decision in the courts, and then once they straighten out the corporation, then we say, "Okay, revive the corporation"?

I think we're putting the cart before the horse, and I certainly think that, once again, this committee is off-bounds here. So I can't support this.

**The Chair (Mr. Michael Prue):** Any other questions?

I believe that the legal counsel had another point that ought to be made.

**Ms. Susan Klein:** It was mostly the point that Mr. Zimmer covered really well; that I didn't address the question about the connection between this revival and the litigation.

The litigation is separate. There's no issue in litigation about whether or not the corporation exists, or whether the corporation is revived. All this committee does is give the corporation a life, and then it can proceed in the litigation—whatever. But if you don't revive it, then you could have a serious effect on the corporation. But its life doesn't affect the issues in the litigation.

Not recently—unfortunately, I've been doing this long enough—but in the late 1980s, there were a number of cases like this, where objectors came forward for corporate revival bills because there was litigation ongoing. The committee was advised in those days that the litigation was just a separate matter that you should not have to put your mind to at all. The revival of the corporation is separate.

If you listen to an objector in litigation, then you may find yourself not reviving a corporation where the other party in litigation objects to the revival, and reviving the corporation where the other party in litigation doesn't object to the revival. You're somehow being pushed and pulled simply by whether the litigants are in agreement to the corporation being revived or not. The litigation and the views of the parties in the litigation are not relevant to your question of whether it's appropriate to revive the corporation.

**The Chair (Mr. Michael Prue):** Mr. Miller again, and then Mr. Leal.

**Mr. Paul Miller:** One question to the legal counsel: So you're saying that the litigation and the revival of the corporation are two separate entities?

**Ms. Susan Klein:** Two separate activities, yes.

**Mr. Paul Miller:** Then why are they here? If they can't move ahead in court and say they're in stalemate—at least, one side says they're in stalemate. If that's the case, and they're separate issues, why are they here, if this isn't important?

**Mr. Bill Murdoch:** They get paid.

**Mr. Paul Miller:** They get paid? Well, okay. That's fair.

You're saying that they're two separate entities and it shouldn't affect whether we revive it or not?

**Ms. Susan Klein:** Right.

**Mr. Paul Miller:** Then why are they here objecting to the revival if it doesn't have an impact, litigation-wise? I'm confused with that.

**Ms. Susan Klein:** I'd have to ask them.

0950

**Mr. Grant Wagman:** May I address that?

**Mr. Paul Miller:** Yes, go ahead.

**Mr. Grant Wagman:** Two points: First, as quoted from the document, "The facts and merits of the litigation involving the two sides, per se, are not part of the private bill application." Mr. Chair, that's the purpose of the private bill. It's the only purpose of the private bill. If you will look at preambles from other private bills, you will see in the preambles things such as "for the purpose of dealing with the property of the corporation," or "for the purpose of reviving the corporation to carry on business," and so on.

The only purpose of the revival of this corporation, and it's also indicated in the compendium, is in respect of the legal proceedings.

It is the custom, when it comes to private bills, that royal assent is not granted until the end of the session. Even if this private bill was passed, it's not going to be receiving royal assent until June. There's no urgency to proceed on a bill that's premature.

We now have a fixed Election Act and a majority of one party in the House. There's no reason to believe that the House is going to dissolve before June and that there's an agenda set of proceedings of the House and the committee. This committee is going to continue until June.

But primarily, it's the issue of prematurity. The proponents of the bill can come before the committee at any time in the future for revival. It does not have to be now. We submit that it does have a direct impact on the case and that the only purpose of this bill, as stated in the preamble in the compendium, is in respect of legal proceedings.

**The Chair (Mr. Michael Prue):** I'm going to direct, since the question was asked of both sides—is there anything you want to add to this question?

**Mr. David Zimmer:** No.

**The Chair (Mr. Michael Prue):** Not to Mr. Zimmer; to the lawyer.

**Mr. Paul Hancock:** No. I think the compendium summarizes our position, and that's it.

**Mr. Paul Miller:** Let's call the question.

**The Chair (Mr. Michael Prue):** No, I can't. Mr. Leal is on the order paper to ask a question.

**Mr. Jeff Leal:** Mr. Chair, my question will be very quick. Ms. Klein, I appreciate the information you've provided. I guess, from my perspective, if we don't revive this corporation, then that could be seen as interfering with the litigation. Correct?

**Ms. Susan Klein:** I think so.

**Mr. Jeff Leal:** Exactly. That's where I come from: south-end Peterborough legalese. I appreciate your observation.



**The Chair (Mr. Michael Prue):** All right. Are there any further questions? All right, then.

**Mr. Bill Murdoch:** I'd ask for a recorded vote.

**Mr. Paul Miller:** Recorded vote.

**The Chair (Mr. Michael Prue):** Yes. Are the members ready to vote? I have to ask that question first. Are you ready to vote?

I have a request from Mr. Miller for a recorded vote. Do you want a recorded vote on everything, every section, every—

**Mr. Paul Miller:** Yes.

**The Chair (Mr. Michael Prue):** All right. We have a request for a recorded vote on all sections.

As I indicated earlier, if there are any amendments when we call the particular section or preamble, you have to indicate if you want to make an amendment.

All right. Going through Bill Pr42—if all members could take their seats. We're in the middle of a vote.

Shall section 1 carry? We're having a recorded vote on each section.

#### Ayes

Caplan, Craitor, Leal, Murdoch, Rinaldi, Ruprecht.

#### Nays

Paul Miller.

**The Chair (Mr. Michael Prue):** That would carry. Shall section 2 carry? We're on a recorded vote, because it has been requested.

**Mr. Bill Murdoch:** Same vote.

**The Chair (Mr. Michael Prue):** I heard "same vote."

**Mr. David Caplan:** Same vote.

**The Chair (Mr. Michael Prue):** Same vote. All right. Recorded, same vote. Carried.

Shall section 3 carry? Same vote?

**Interjections:** Same vote.

**The Chair (Mr. Michael Prue):** Same vote. Carried.

Shall the preamble carry? Same vote?

**Interjections:** Same vote.

**The Chair (Mr. Michael Prue):** Same vote. Carried.

Shall the title carry? Same vote?

**Interjections:** Same vote.

**The Chair (Mr. Michael Prue):** Same vote. Carried.

Shall the bill carry? Same vote?

**Interjections:** Same vote.

**The Chair (Mr. Michael Prue):** Same vote. Carried.

Shall I report the bill to the House?

**Mr. Paul Miller:** No.

**The Chair (Mr. Michael Prue):** I think I heard a no. This is the same vote?

**Interjections:** Same vote.

**The Chair (Mr. Michael Prue):** Same vote. The bill is carried.

**Mr. Bill Murdoch:** Meeting adjourned?

**The Chair (Mr. Michael Prue):** No, I do believe there was one other item, but the clerk hasn't seen it, so perhaps it will be on the next agenda, I think. I will give a copy to the clerk. It was sent to me. The agenda item is probably for receipt, but I think all members should see it. It's dated March 15 and it is from Philip Kaye, manager of legislative research.

Is there any other item that anyone else wants to bring before committee?

**Interjection:** No.

**The Chair (Mr. Michael Prue):** Seeing none, meeting adjourned.

*The committee adjourned at 0955.*





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### STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

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Mr. Tony Ruprecht (Davenport L)

#### Also taking part / Autres participants et participantes

Mr. David Zimmer (Willowdale L)

#### Clerk pro tem / Greffière par intérim

Sylwia Przedziecki

#### Staff / Personnel

Ms. Susan Klein, legislative counsel

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of Ontario**

Second Session, 39<sup>th</sup> Parliament

**Assemblée législative  
de l'Ontario**

Deuxième session, 39<sup>e</sup> législature

**Official Report  
of Debates  
(Hansard)**

Wednesday 30 March 2011

**Journal  
des débats  
(Hansard)**

Mercredi 30 mars 2011

**Standing Committee on  
Regulations and Private Bills**

Draft report on regulations

**Comité permanent des  
règlements et des projets  
de loi d'intérêt privé**

Rapport préliminaire  
sur les règlements

Chair: Michael Prue  
Clerk: Katch Koch

Président : Michael Prue  
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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE  
ON REGULATIONS  
AND PRIVATE BILLS

Wednesday 30 March 2011

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES  
RÈGLEMENTS ET DES PROJETS DE LOI  
D'INTÉRÊT PRIVÉ

Mercredi 30 mars 2011

*The committee met at 0900 in room 151.*

**The Chair (Mr. Michael Prue):** The meeting is now called to order. The applicant is not here for the first item, so what I propose, since we do have four items on the agenda, is that we go down through the other items, and when the applicant arrives, we will deal with item number 1 at that point. Any objections to that? Okay.

## DRAFT REPORT ON REGULATIONS

**The Chair (Mr. Michael Prue):** Then, we'll go on to consideration of the draft report on the regulations, item number 2.

As members will be aware, we have done this in the past. It's sometimes a little difficult, but what we have to do is make recommendations to the various ministries where, in our belief, the regulations that have been put in place may not be in accordance with what the legislation intended. So it is a recommendation only, and it will go back to the appropriate ministry if the committee is in concurrence with what has been proposed by the lawyers and research staff.

Everybody has a copy of the report on the regulations, second draft, I trust? Okay. We do have extra copies here.

**Mr. David Caplan:** Wonderful.

**Mr. Jeff Leal:** Thank you.

**The Chair (Mr. Michael Prue):** All right. First of all, are there any questions leading up to the first committee recommendation, which is found on page 10? Any questions of staff? Mr. Miller?

**Mr. Paul Miller:** On the explanation for this one, it says, "The ministry explained that the purpose of subsection 8.3(1) is not to create an exemption from part V of the Environmental Protection Act, but rather to set out the technical requirements for such an exemption."

That's a little bit confusing. If you're going to set out the technical requirements for the exemption, that is creating an exemption or working towards it. I don't quite understand that. Maybe you can help me with that.

It further says, "The ministry also noted that the exemption itself is contained in a regulation made under the Environmental Protection Act," and revised, and that regulation reads, "A waste disposal site...."

And, "It is a NASM plan area, as defined in Ontario regulation ... made under the Nutrient Management Act."

That first part is very contradictory.

**Mr. Andrew McNaught:** In fact, the recommendation that's already been approved, to my understanding, at the last meeting, proposes to clarify exactly that point, that the Nutrient Management Act regulation is simply setting the criteria that have to be met in order to qualify for the exemption. However, the exemption itself is provided under the Environmental Protection Act. So that is the recommendation that the ministry clarify that the regulation sets out the requirements necessary to obtain an exemption from part V of the Environmental Protection Act, but does not create the exemption itself.

**Mr. Paul Miller:** But don't requirements create an exemption?

**Mr. Andrew McNaught:** No. That's not considered to be the authority for the exemption. It's the criteria that you have to meet, but—

**Mr. Paul Miller:** But if you're setting the criteria and setting out the regulation, you're creating a vehicle for the exemption; is that not correct? This is certainly confusing.

**Mr. Andrew McNaught:** The statutory authority to create the exemption is set out in the Environmental Protection Act.

**Mr. Paul Miller:** Yes, but they want an exemption for this from—

**Mr. Andrew McNaught:** From part V they want an exemption—

**Mr. Paul Miller:** They want to do an end run around the Environmental Protection Act is what they're doing here, and now we're creating the technical requirements. We're telling them what the technical requirements are to do that, so we are taking part in creating an exemption from part V of the Environmental Protection Act. This is very confusing, and I certainly can't support this in its present state. C'est la vie.

**The Chair (Mr. Michael Prue):** Further questions of staff on this issue?

**Mr. Tony Ruprecht:** Can we hear from the solicitor?

**The Chair (Mr. Michael Prue):** Surely—

**Mr. Tony Ruprecht:** In response to Paul's statement just now, are we actually telling them how to do an end run around the nutrient act?

**Mr. Andrew McNaught:** No. As I've said, the regulation in question under the Nutrient Management Act establishes criteria that you have to meet in order to be eligible for the exemption. The actual exemption, how-



ever, is—the authority to create an exemption is in the Environmental Protection Act. That's in regulation 347, as described on page 9 of the report.

It was confusing. That's why we raised it in the first place. It appeared to create the exemption, but the ministry says, "We're simply establishing the criteria." But the actual exemption itself is provided in another act.

**Mr. Tony Ruprecht:** So Mr. Miller doesn't have a point?

**Mr. Andrew McNaught:** Well, he has a point. It's the one that we were raising as well, that it could be confusing to someone who's not completely familiar with this process. So we're asking the ministry to clarify—

**Mr. Paul Miller:** Miller always has a point.

**Mr. Andrew McNaught:** —in that recommendation on page 10 that—

**Mr. Gerry Martiniuk:** And they say it doesn't need clarification?

**The Chair (Mr. Michael Prue):** Okay. So the recommendation itself is asking the ministry to clarify because it's confusing, and that's the point that Mr. Miller's trying to make. He's not supporting that we ask—

**Mr. Andrew McNaught:** It's a very technical, legal distinction here, I understand that—

**Mr. Paul Miller:** No, but what I'm saying is, with all due respect to legislative research and to the committee, that if you're partaking in creating the exemption from the nutrient act to the environmental act—the whole problem was that the environmental act was interfering with the nutrient act, and now they want to do an end run around the environmental act so they can get the regulations in place in the nutrient act so that the farmers can do what they wanted to do with the fertilizer and things like that.

What I'm saying is, if we are helping to create regulations or inventing regulations to go against part V of the environmental act, then we're partaking in creating an exemption, where you're saying we're not, but I beg to differ.

All I'm saying is, you can vote the way you want, but I can't support it, even if the committee—this is a committee recommendation that came back to us for us to look at again after we had a concern. I didn't vote for this in the first place.

**Mr. Andrew McNaught:** My understanding was that it was approved at the last—

**Mr. Paul Miller:** Not by me.

**The Chair (Mr. Michael Prue):** The committee approved it.

**Mr. Andrew McNaught:** The one addition that the committee requested was that the ministry report back to us when it's made the clarification that we've requested.

**Mr. Paul Miller:** But the clarification doesn't suit me, okay? I don't agree with it.

**Mr. Gerry Martiniuk:** Can I ask a question?

**The Chair (Mr. Michael Prue):** Surely.

**Mr. Gerry Martiniuk:** Thank you. As our counsel, do you believe that the act is clear as to the disposition of the power of exemption?

**Mr. Andrew McNaught:** I think it needs clarification.

**Mr. Gerry Martiniuk:** Okay. That's what we asked for, and we haven't got it. How could we clarify it? Is there a phraseology or a section we could recommend or something?

We were confused to start with, and I don't think it's been clarified. Is there a specific we can go back to them with and recommend, rather than ask them to clarify it? Because they haven't clarified it; they've said that it's absolutely clear.

**Mr. Andrew McNaught:** The recommendation we have is to state more clearly that the regulation is setting out requirements that have to be met but it's not creating the actual exemption. That's in another regulation under the Environmental Protection Act. That would go some way to—

**Mr. Gerry Martiniuk:** Is there anything we can recommend, as to wording, that would satisfy you, as a lawyer?

**Mr. Andrew McNaught:** That's not really my area of expertise. It's up to the committee to ask somebody from the Ministry of the Environment. You could have somebody from their legal branch come in, and you could put that kind of question to them.

0910

**Mr. Paul Miller:** On a point of order, Mr. Chair: I think simply that if the Ministry of the Environment sends us a letter or tells us that they're okay with this and it doesn't have an impact on part V of the Environmental Protection Act that this request for regulation changes by the Ministry of Agriculture, if they can state in writing that it will have no impact of doing an end run, so to speak, around number 5 of the Environmental Protection Act, if they can assure the committee that's not happening—they don't do that in this recommendation. There's a lot of grey area here. Mr. Martiniuk pointed out that we had a problem last time with this. I think they've come back with a bunch of mumbo-jumbo here. They really haven't clarified it. Unless it comes in layman's terms and in plain English, I can't support this in its present state because it's contradictory.

You can vote on it if you want; it's up to you.

**The Chair (Mr. Michael Prue):** We will vote on it, unless there's another motion. If you want further clarification, you have to make a motion. If you want to call a member from the ministry here to explain to the committee in person, you can make that motion. Or you can simply vote against it. All of those options are available. I'm in the committee's hands. Are there any other questions of Andrew McNaught, any other questions of our researcher?

Seeing none, open for discussion: What does the committee want to do?

**Mr. Paul Miller:** I'll present a motion to ask for further clarification and for the Ministry of the Environment to come here and explain their position, and the agricultural ministry, just to clarify for us what they're talking about.



**The Chair (Mr. Michael Prue):** All right. I guess in committee legal terms, Mr. Miller is moving that we not deal with this item today but, in fact, call officials from both ministries to come on our next occasion to explain—

**Mr. Paul Miller:** The impact.

**The Chair (Mr. Michael Prue):** —the impact.

Mr. Ruprecht, on the motion.

**Mr. Tony Ruprecht:** Mr. Leal just left, and I would appreciate it if we could stand this down and discuss the next item until he returns. Give him about four or five minutes. In the meantime, we can discuss something else. Is that possible?

**The Chair (Mr. Michael Prue):** Okay, now we have a procedural motion, which would take precedence, that this motion be held down. Is there agreement on that?

**Mr. Tony Ruprecht:** Until Mr. Leal returns.

**Mr. Paul Miller:** No problem.

**The Chair (Mr. Michael Prue):** All right. We'll hold that down, then. It's agreed.

We'll go to the next recommendation, which is found on page 11, dealing with the Ministry of Community and Social Services. It's noted here that the committee asked to see the correspondence between committee counsel and the Ministry of Community and Social Services before making a recommendation.

**Mr. Andrew McNaught:** All right, so that should be the first letter you have in the package you received this morning. This requires a quick review of this issue.

The regulation in question is under the Child and Family Services Act, the CFSA. It deals with the disclosure of certain adoption information by the ministry and by children's aid societies. In effect, the regulation authorizes the disclosure of non-identifying adoption information to birth parents and adopted persons. An example of a request for non-identifying information would be a request by an adopted person to see his or her birth family's social or medical history. The CFSA regulation also provides for the operation of a voluntary adoption disclosure register. Information disclosed through that register is done so with the consent of the parties to an adoption. That's on one side.

On the other, you have the Vital Statistics Act, which, I'm sure you know, was recently amended to allow adopted persons and birth parents to file information disclosure vetoes, no-contact notices and so on with respect to identifying adoption information held by the Registrar General under the Vital Statistics Act.

The issue we're raising concerns section 2.1(2) of the CFSA regulation, which we've reproduced for you two thirds of the way down on page 10. That section provides that the disclosure of information under the CFSA is not affected by the existence of disclosure vetoes or no-contact notices filed under the Vital Statistics Act.

As explained in the ministry's letter, the purpose of this section is simply to clarify that the disclosure of non-identifying information under the CFSA is not affected by the existence of disclosure vetoes and other protection

measures that apply to identifying information under the Vital Statistics Act.

Our concern is that, if you weren't aware of this distinction between the two adoption information regimes, you might think that section 2.1 of the CFSA regulation is somehow overriding the disclosure protection measures that were recently added to the Vital Statistics Act with respect to identifying information. That's not what it's doing, but you might get that impression. I think, Mr. Martiniuk, that was your concern at the last meeting, that somehow this is overriding those recent amendments to the Vital Statistics Act. It's not doing that, but nonetheless, it could warrant some clarification.

The committee has some options here. On the one hand, you can accept the ministry's explanation that section 2.1 serves the purpose of clarification, in which case you wouldn't report this regulation.

But if you think that section 2.1 has the potential to cause confusion, then you can make one of the two recommendations I've set out for you at the bottom of page 11. One would simply be to revoke subsection 2.1(2), and that would have no substantive effect on the regulation, as stated in the ministry's letter. The other option is to ask the Ministry of Community and Social Services to amend section 2.1 to clarify that information disclosed under the CFSA is non-identifying information or is information being disclosed through the adoption disclosure register on a voluntary basis.

**The Chair (Mr. Michael Prue):** Okay. Questions?

**Mr. Paul Miller:** This in no way, shape or form infringes on the privacy act?

**Mr. Andrew McNaught:** No. More specifically, it doesn't affect those disclosure vetoes and other privacy protection measures that were added to the Vital Statistics Act.

**Mr. Paul Miller:** So, no, it doesn't.

**Mr. Andrew McNaught:** No.

**Mr. Paul Miller:** Okay.

**The Chair (Mr. Michael Prue):** Mr. Martiniuk?

**Mr. Gerry Martiniuk:** I would recommend, or I would move, the second alternative: requesting they amend to ensure that there's no doubt that certain information is not to be disclosed.

As a former lawyer, I get concerned about lawsuits dealing with matters of this kind, which would tie up the courts unnecessarily. If we can clarify it, I think it's incumbent upon us as a committee to attempt to clarify it, to avoid any future misunderstandings and the lawsuits that would cost everyone a lot of money.

**The Chair (Mr. Michael Prue):** Okay, we have a motion, but before we do that, are there any other questions of the legislative researcher? Any other questions?

We have a motion before us, moved by Mr. Martiniuk, that we adopt the second recommendation, which is found at the bottom of page 11. Everybody has it. Any discussion?

Seeing no discussion, all those in favour? Opposed? That would carry. The committee will be recommending the second recommendation.



We're going back now to the first recommendation. Mr. Leal is now again present. There was a request that it be held down until you returned, and you are now here. Is there any advice—

**Mr. Jeff Leal:** Mr. Chair, we have no problem with this particular portion being deferred. I understand there was a request for some ministry officials to appear in front of us.

**The Chair (Mr. Michael Prue):** Yes.

**Mr. Jeff Leal:** We find that satisfactory.

**The Chair (Mr. Michael Prue):** All right. Are you acting as the parliamentary assistant today?

**Mr. Jeff Leal:** Sort of. We're aware of some events that occurred in Port Hope, with the spill and that. I believe Mr. Rinaldi was required to be in his riding this morning. So, at the last minute, I am a fill-in.

0920

**The Chair (Mr. Michael Prue):** Okay, we need to know that, especially when we get to the bill that's before us. I will address you as that person in that acting capacity.

**Mr. Jeff Leal:** Thank you very much, Mr. Chair.

**The Chair (Mr. Michael Prue):** Okay. So we have Mr. Miller's request. All those in favour of holding this down and requesting that the officials from the two ministries be here at the next meeting? That's carried.

Okay, we go on to the third recommendation, which is found on page 13—oh, I should let the committee know that we have received an email that the lawyer and the company owner are on their way. They're stuck in traffic on the Gardiner.

**Mr. Jeff Leal:** I just chatted with Mr. Kormos in the House; they are stuck in a similar traffic jam that Minister Sousa was caught in. It's bedlam out there today.

**The Chair (Mr. Michael Prue):** Bedlam out there today. So as soon as they arrive, we will deal with that one.

But in the meantime, we're on to page 13—

**Mr. Andrew McNaught:** Actually—I'm sorry; you skipped page 12.

**The Chair (Mr. Michael Prue):** Oh, sorry. Yes, I didn't see that at the bottom.

**Mr. Andrew McNaught:** At the top of page 12, under the heading "Ministry of the Attorney General," the committee discusses a regulation made under the Justices of the Peace Act. At the time of the last meeting, we had not heard from the ministry in response to our inquiry, but we now have that response, and that's the second letter included in the package you received this morning.

We raised two issues with the ministry here. The first is whether the authority in the act to make regulations providing for the benefits to which justices of the peace are entitled includes authority to reimburse justices of the peace for the expenses they incur. The question is, can you interpret "benefits" to include expenses? The second issue we raised is whether the act authorizes regulations providing for the benefits to which former justices of the peace are entitled, not just sitting justices of the peace.

The ministry's response, which you have, provides very extensive arguments in support of the regulations as made. In my view, they adequately address the concerns we raised—

**Mr. Tony Ruprecht:** Excuse me. Can you repeat that? In your opinion—

**Mr. Andrew McNaught:** That the ministry's response adequately addresses the concerns we raised in our letter to them. So I would be recommending that we simply remove this section from the report.

**The Chair (Mr. Michael Prue):** Any questions or discussions?

*Interjection.*

**The Chair (Mr. Michael Prue):** We have a motion that it be removed from the report. Any other discussion? Seeing none, all those in favour? That's carried.

**Mr. Andrew McNaught:** Okay, so on to page 13, where we discuss three regulations that fall under the Ministry of Transportation. The first one is O.Reg. 175/09 under the Highway Traffic Act. That reg includes definitions for the purposes of the street racing provisions of the Highway Traffic Act. The issue here was an apparent inconsistency between the English and French versions of the regulation. This reg was considered at the committee's last meeting in December. At that time, you agreed that the inconsistency should be removed, and you've approved the recommendation that you see toward the bottom of page 13.

**The Chair (Mr. Michael Prue):** So that has already been dealt with?

**Mr. Andrew McNaught:** Here you have the recommendation in writing, yes.

**The Chair (Mr. Michael Prue):** Okay. That was dealt with the last time we had this—

**Mr. Andrew McNaught:** Right.

**The Chair (Mr. Michael Prue):** So we go on to page 14.

**Mr. Andrew McNaught:** Well, right at the bottom of page 13 is another regulation, 405/09 under the Highway Traffic Act. This was not considered at the last meeting.

This regulation deals with safety helmets for motorcyclists and bicyclists. The issue here, again, is whether the French version of this regulation should have been made by the minister instead of the Lieutenant Governor in Council. Specifically, we're saying that the French version of this regulation should have been made by the minister, not by cabinet. This is because the statutory authority to make safety helmet regulations was changed. Previously, the cabinet had authority to make this regulation. Some time during the drafting of the French version of the regulation, the authority to make the safety helmet regulations was moved to the minister, so there was some delay in getting the French version out.

**Mr. Paul Miller:** Was he a biker?

**Mr. Andrew McNaught:** Well, I don't know about that. But, in any event, the French version of this regulation was made after the authority had been transferred to the minister. So, technically speaking, it should have been made by the minister and—



**The Chair (Mr. Michael Prue):** So all the committee would then recommend is, "Please, Madam Minister, you go do it."

**Mr. Andrew McNaught:** In their response, the ministry said they would be willing to revoke the French version of this regulation and have it remade by the minister. That's the recommendation towards the bottom of page 14.

**The Chair (Mr. Michael Prue):** Can we have a motion to that effect?

**Mr. Jim Brownell:** I move.

**The Chair (Mr. Michael Prue):** Moved by Mr. Brownell that we move that recommendation. Any discussion? All those in favour? Opposed? That's carried.

**Mr. Andrew McNaught:** One last regulation to consider here, and that's starting at the bottom of page 14, "O. Reg. 176/09 was made under the Photo Card Act, 2008." Section 3 of that regulation established the dates for phasing in the photo card program. However, as we've outlined in that short chronology that you see there, it appears that clause 23(a) of the act, which was the statutory authority to make regulations establishing a phasing-in period, was revoked before the regulation ever took effect.

The issue is, was there ever statutory authority to make a regulation establishing a phasing-in period? The ministry, in its response, says this was an oversight and they are proposing to revoke section 3 at the earliest opportunity. That's the recommendation we're making on page 15.

**The Chair (Mr. Michael Prue):** Okay. Any discussion on that? Any questions? Mr. Miller?

**Mr. Paul Miller:** I assume they're saying they're going to fix it?

**Mr. Andrew McNaught:** Yes.

**The Chair (Mr. Michael Prue):** It would require a motion on our behalf to recommend to them—well, whatever's down here—that they do it at the next opportunity.

**Mr. Paul Miller:** So moved.

**The Chair (Mr. Michael Prue):** So moved by Mr. Miller. Any discussion? All those in favour? Opposed? That carries.

**The Chair (Mr. Michael Prue):** Those are all the recommendations.

**Mr. Andrew McNaught:** That's it; yes.

**The Chair (Mr. Michael Prue):** And there is only one now outstanding. The first recommendation is still outstanding, pending people coming, and then we can finally deal with this. It takes a long time. So on the next occasion, we can put this one to bed. We'll do it all at once.

**Mr. Andrew McNaught:** If I can just make one housekeeping note. I know there was some concern expressed at the last meeting that we were falling a little behind in the review process here because we're dealing with 2008 and 2009 regs, but once we're through this, we will have a draft report on regulations made in 2010. That will be ready, we're hoping, for the first week in May,

and perhaps the committee can deal with it before the break. We'll also be starting in on the 2011 regulations review as well.

## COMMITTEE BUSINESS

**The Chair (Mr. Michael Prue):** All right. We have two other small items. The sponsor and applicant are not yet here. We have a letter from Mr. Marchese. I trust everybody has received a copy of this.

**Mr. Paul Miller:** I haven't got one.

**The Chair (Mr. Michael Prue):** I gave it to the clerk last week.

**Mr. Gerry Martiniuk:** I got one.

**The Chair (Mr. Michael Prue):** You got one. Okay.

What Mr. Marchese is asking is that his bill—Bill 79 was passed at second reading in the House and was sent to this committee. He is asking the committee, at its earliest convenience, to have a meeting of the subcommittee to determine whether or not the subcommittee wants this bill to proceed. Mr. Leal?

**Mr. Jeff Leal:** We would ask that this matter be deferred at this time. Because of the circumstances with Mr. Rinaldi not being here today—he is the parliamentary assistant to the Minister of Municipal Affairs and Housing. I know they would like to be able to respond on this before it moves forward. Out of respect for Mr. Rinaldi, we would just ask that this matter be deferred to a future agenda.

**The Chair (Mr. Michael Prue):** We have a motion of deferral. Mr. Miller, on the motion of deferral?

**Mr. Paul Miller:** I think I understand your position with Mr. Rinaldi. However, this particular item has been deferred so many times that they're running out of paper. So I would like to see this go ahead today. If not, could we have a recorded vote on what happened—whether it's deferred or not? Can we have a recorded vote on a deferral?

**The Chair (Mr. Michael Prue):** I guess you could probably have a recorded vote on anything. I mean, this is a procedural motion. It's not a substantive motion, it's a procedural one, but if you want one, I guess we can have a recorded vote.

**Mr. Paul Miller:** I'd like a recorded vote.

**The Chair (Mr. Michael Prue):** Any other discussion on the motion of deferral?

Okay, we have a motion made by Mr. Leal to defer this—to the next meeting? We have to have a time frame.

**Mr. Jeff Leal:** I would certainly suggest the next meeting. That's very fair.

**The Chair (Mr. Michael Prue):** To the next meeting. Okay. All right.

**Mr. Jeff Leal:** And then Mr. Rinaldi would be present to make a response on behalf of the Ministry of Municipal Affairs and Housing; that's all.

**The Chair (Mr. Michael Prue):** Well, the response is not on the merits of the bill; it's whether or not the subcommittee is struck. That's really what—okay. But we have a motion of deferral—



**Mr. Jeff Leal:** To defer to the next meeting.

**The Chair (Mr. Michael Prue):** —to the next, to decide this. All those in favour, on a recorded vote?

### Ayes

Brownell, Caplan, Leal, Martiniuk, Ruprecht.

### Nays

Paul Miller.

**The Chair (Mr. Michael Prue):** Okay. That motion of deferral has passed.

We have a closed session on research services for the committee. I'm not sure why this is closed. Perhaps the clerk can advise why this would be closed.

What we have, and I think all members would have this—I hope. Do they have this?

**The Clerk Pro Tem (Ms. Sylwia Przedziecki):** No.

**The Chair (Mr. Michael Prue):** No?

**The Clerk Pro Tem (Ms. Sylwia Przedziecki):** We're just waiting on copies to get here.

**The Chair (Mr. Michael Prue):** Okay. We are awaiting copies. So we'll hold that down.

I think at this point, since we have no other business we can deal with here today at this point, if we could take a recess for approximately five minutes or so to await the arrivals of Messieurs Kormos and LaRose. Is there a motion to recess until their arrival?

**Mr. Jeff Leal:** I'll move that, Mr. Chair.

**The Chair (Mr. Michael Prue):** We have a motion to recess. Don't go too far; we will reconvene as soon as they arrive, okay? This meeting stands recessed until the arrivals of Messieurs Kormos and LaRose.

*The committee recessed from 0932 to 0937.*

## 1314596 ONTARIO INC. ACT, 2011

Consideration of Bill Pr36, An Act to revive 1314596 Ontario Inc.

**The Chair (Mr. Michael Prue):** We'll call the meeting back to order.

We have been told that Mr. Kormos is unavailable to proceed at this time, due to duties in the House. He has requested that Mr. Miller step in as the sponsor. Therefore, we will call Bill Pr36, An Act to revive 1314596 Ontario Inc.

Mr. Miller, the floor is yours.

**Mr. Paul Miller:** I'd like to introduce Mr. Sherwood and Mr. LaRose. They would be making their submissions to the committee on this request. Mr. LaRose?

**The Chair (Mr. Michael Prue):** Mr. LaRose, the floor is yours. Please sit down. It has to be into the mike. We have to hear you.

**Mr. Mark LaRose:** Okay. This matter somehow got off the rails. I was assisted by Catherine Oh at one point, before Susan Klein became involved.

About two and a half years ago, we started this application. It's simply a matter to revive the corporation, which had been dissolved because of non-reporting. Essentially, we've made the application to revive and have gone through the Ontario Gazette and the local newspapers for presenting to the public. We are now in front of this committee, asking for the bill to be passed and allow us to again commence business—which was an active business with that particular company, 1314596 Ontario Inc.

All of the issues of the income tax and the filing have been approved by the Ontario tax people and the federal tax people, and all of the income tax information is ready to be processed and has been completed by Goldhawk Accounting and Tax Services in Thorold.

I guess there's really not much more I can say.

**The Chair (Mr. Michael Prue):** Okay. Before we do that, I'm required to ask: Are there any other interested parties to this application? Any other interested parties?

Seeing none, Acting Parliamentary Assistant, are there any comments from the government?

**Mr. Jeff Leal:** The Ministry of Government Services, the Ministry of Finance and the Ministry of Revenue have reviewed this particular private member's bill and we are in total support of it.

**The Chair (Mr. Michael Prue):** Okay. Are there any questions from committee members to the applicant? Seeing none, are the members ready to vote? Yes? Okay. It's a simple bill here, so it shouldn't take too long.

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Thank you very much. Finished.

*Interjections.*

**The Chair (Mr. Michael Prue):** It is proposed that we go into closed session. We need a rationale for that, which the clerk will explain, and then the members will vote whether or not to have a closed session. Madam Clerk.

**The Clerk Pro Tem (Ms. Sylwia Przedziecki):** The rationale for holding this meeting in closed session is that the research service of the committee wishes to hear the committee's feedback on the quality of its service to members. This is a topic that deals with internal services to members in the work that they do at the Assembly. It is, by extension, an issue of personnel.

The committee will vote, but we would recommend that this is a topic that should not be on the public record.

**The Chair (Mr. Michael Prue):** Mr. Miller?

**Mr. Paul Miller:** Can I have a further explanation? You ran through that really quickly, about services and somebody who's dealing with services to the committees. There's a problem with the personnel in that?

**The Clerk Pro Tem (Ms. Sylwia Przedziecki):** No, and in fact, I will be distributing to the committee

members a copy of a letter that was sent to all Chairs and Vice-Chairs of committees, which is the reason that the Chair has put this on the agenda for today's meeting.

Simply, the research service, the staff who prepare reports and research to the committees, are asking for feedback from committees as to the quality of the service they are providing, and hope to improve their services down the road.

**Mr. Paul Miller:** So how is that a personnel matter?

**The Chair (Mr. Michael Prue):** It is a personnel matter if members of the committee were to be highly critical of a person or persons. That could be a personnel matter. I'm not sure what the committee is going to do.

**Mr. Paul Miller:** Can we vote on whether we're going to accept this in camera or not?

**The Chair (Mr. Michael Prue):** Yes, absolutely. The clerk has recommended that it be held in camera. You have heard the explanation. Members are free to make that choice.

**Mr. Paul Miller:** Okay.

**The Chair (Mr. Michael Prue):** All right. Does somebody want to move a motion either to go in camera or not go in camera? I need one or the other motion to be made.

**Mr. Paul Miller:** I'll make a motion not to go in camera.

**The Chair (Mr. Michael Prue):** All right. We have a motion from Mr. Miller that we not go in camera to deal with this. Any discussion on Mr. Miller's motion?

Seeing no discussion, all those in favour of not going in camera? All those opposed? That motion is defeated.

**Mr. Paul Miller:** Are we starting now?

**The Chair (Mr. Michael Prue):** I need a motion to go in camera, if we're going to do that.

**Mr. David Caplan:** I'll move that we go into closed session.

**The Chair (Mr. Michael Prue):** All right. Mr. Caplan has moved that we go into closed session. Any discussion on that?

**Mr. Paul Miller:** Yes. Could I have a recorded vote on that, to move into closed session?

**The Chair (Mr. Michael Prue):** Sure.

**Mr. Paul Miller:** I'd like a recorded vote on that.

#### Ayes

Brownell, Caplan, Leal, Ruprecht.

#### Nays

Paul Miller.

**The Chair (Mr. Michael Prue):** That carries.

*The committee continued in closed session from 0945 to 0952.*

**The Chair (Mr. Michael Prue):** This meeting is now back in open session. Is there any other business that anyone has today?

Seeing none, this meeting is adjourned.

*The committee adjourned at 0952.*









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**Official Report  
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(Hansard)**

Wednesday 6 April 2011

**Journal  
des débats  
(Hansard)**

Mercredi 6 avril 2011

**Standing Committee on  
Regulations and Private Bills**

Draft report on regulations

**Comité permanent des  
règlements et des projets  
de loi d'intérêt privé**

Rapport préliminaire  
sur les règlements

Chair: Michael Prue  
Clerk: Valerie Quioc Lim

Président : Michael Prue  
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## LEGISLATIVE ASSEMBLY OF ONTARIO

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE  
ON REGULATIONS  
AND PRIVATE BILLSCOMITÉ PERMANENT DES  
RÈGLEMENTS ET DES PROJETS DE LOI  
D'INTÉRÊT PRIVÉ

Wednesday 6 April 2011

Mercredi 6 avril 2011

*The committee met at 0900 in room 151.*

## DRAFT REPORT ON REGULATIONS

**The Chair (Mr. Michael Prue):** The meeting is now called to order. We have three items on the agenda. The first item: We're going to listen to the Ministry of Agriculture, Food and Rural Affairs and the Ministry of the Environment. I invite Shannon DeLeskie and Melissa McDonald to come forward.

**Ms. Melissa McDonald:** Good morning.

**The Chair (Mr. Michael Prue):** Good morning. If you could identify yourselves for the purposes of Hansard. I know who you are, but just so that they know.

**Ms. Melissa McDonald:** I'm Melissa McDonald. I'm counsel, legal services branch, Ministry of the Environment.

**Ms. Shannon DeLeskie:** I'm Shannon DeLeskie. I'm the deputy director at the legal services branch of the Ministry of Agriculture, Food and Rural Affairs.

**The Chair (Mr. Michael Prue):** In order to facilitate this, because I don't think this should take too long, perhaps Mr. McNaught could indicate the dilemma that he has uncovered and that the committee wants to explore.

**Mr. Andrew McNaught:** The issue concerns a regulation made under the Nutrient Management Act. That regulation deals with the application of nutrients to farms and provides for what's called a NASM plan. That's a non-agricultural source material plan. Farms that use non-agricultural source materials may be required to have a NASM plan.

Under the regulation, if a NASM plan area satisfies certain criteria, the regulation in section 8.3—before I go on, I'm not sure if people have the memo that I wrote on this.

**The Chair (Mr. Michael Prue):** Yes, everybody has it.

**Mr. Andrew McNaught:** Okay. So I've quoted the relevant section there; it's section 8.3 of regulation 267/03. It provides that, "A NASM plan area that satisfies the following requirements is exempt from part V of the Environmental Protection Act...."

Our initial concern here was that there's no authority in the Nutrient Management Act to create an exemption from part V of the Environmental Protection Act. So we

wrote to the ministry about that, and they explained in their response that in fact the regulation under the Nutrient Management Act is simply establishing the requirements that have to be met in order for a NASM plan area to be eligible for an exemption under the Environmental Protection Act. The actual exemption from part V of the Environmental Protection Act is set out in regulation 347 under the EPA. So you have the criteria that you have to meet in order to be exempt set out in the Nutrient Management Act; you have the actual exemption created by a regulation under the Environmental Protection Act.

Our concern was that the wording of the Nutrient Management Act regulation, when it uses the phrase "is exempt from," could be understood to mean that the Nutrient Management Act regulation is creating the exemption, whereas in fact, it's only setting, establishing criteria. So we've asked the ministry to come in and explain further on the difference between the two.

**The Chair (Mr. Michael Prue):** And the floor is now yours.

**Ms. Melissa McDonald:** Thank you very much. My colleague and I put together a slide deck which we thought would assist in explaining the matter at issue. It's very brief; it's only four slides. I thought I would take you through it to see if that assists in clarifying the matter. I do think that Mr. McNaught has pretty much summed up the issue. Hopefully, this will satisfy any concerns.

What I'm going to do is I'm going to be giving you just the context of the amendments with respect to the nutrient management regulation, explaining how that intersects with the Environmental Protection Act regulation amendment and then explaining the rationale, the reason that we did it that way.

Starting on slide 1, I'm starting with the Nutrient Management Act and the general regulation under that act. Just for the context, the purpose of the Nutrient Management Act is to provide for the management of materials containing nutrients in ways that will enhance protection of the natural environment and provide a sustainable future for agricultural operations and rural development.

As you know, in 2009, the general regulation made under the act was amended by O. Reg. 338/09. What this amendment did is set out a detailed code governing the land application of NASM to agricultural operations. I



focused it on land application; it also takes in storage of NASM on agricultural operations. It was more for brevity of language on the slide.

You'll hear me use the word NASM. It's an acronym; it means non-agricultural source material. NASM is applied to land as nutrients. Most NASMs are materials that are generated off a farm. It's good to be familiar with what that term is. We know that NASM under the Nutrient Management Act is nutrients.

Then when we go to slide 2, we're talking about the Environmental Protection Act. Under the Environmental Protection Act, NASM would also be considered a waste. When we consider part V of the Environmental Protection Act, that sets out a requirement for a certificate of approval for waste disposal sites. That would include the application of waste to land. We also have regulation 347; that's the general waste management regulation under the EPA.

Prior to the 2009 amendment, so these are the amendments that you're looking at, the application of many types of NASM to agricultural land—we're talking agricultural land—were subject to (1) the requirement for a certificate of approval under part V of the EPA; (2) regulation 347, again, under the EPA; and (3) O. Reg. 267/03 under the Nutrient Management Act. Those were the frameworks under which NASM fit. That was prior to the amendments.

In 2009, regulation 347, again, under the EPA, was amended to exempt NASM applied to agricultural land from part V of the EPA—so this would include the requirement for a certificate of approval—and regulation 347 on the condition that certain land application requirements were met. These requirements were set out in the nutrient management regulation.

Let's turn to slide 3. We have the authority to make exemptions under the Environmental Protection Act. That's so that you understand what the authority was to set out that exemption. In the EPA, there's a clear authority permitting the making of a regulation that exempts things—and it's a long list; I won't go through the list—with conditions from the requirements of the EPA and its regulations.

In this case, the exemption was made for NASM that meets certain requirements from part V of the EPA and regulation 347. This particular exemption was set out in regulation 347, so we're talking about the regulation under the EPA. The specific language is set out here; it's section 5.0.2 in the regulation under the EPA. I'll read it:

"5.0.2 A waste disposal site is exempt from part V of the act and from this regulation"—that's the exemption—"if"—and these are the conditions:

"(a) it is a NASM plan area, as defined in" our nutrient management regulation; and

"(b) it satisfies the requirements of section 8.3" of the nutrient management regulation.

We have the exemption with the conditions in the regulation made under the Environmental Protection Act. Those conditions are that they meet the requirements that are set out in the nutrient management regulation. That's

in section 8.3 of that regulation, which is the subject that Mr. McNaught spoke to earlier.

**0910**

So if we turn to slide 4, we've got the exemption in reg 347. The conditions that must be met are the requirements set out in the nutrient management regulation. The rationale for doing it this way was so that farmers—remember, farmers are the ones who are subject to this scheme—could have all the relevant nutrient management requirements in one place, in that one nutrient management regulation. So they pick up the nutrient management regulation and they know all the requirements that they have to deal with. The exemption, as I've taken you through, under the EPA is set out in the regulation under the EPA, made in accordance with the regulation-making authority in the EPA.

That's the slide deck that I put together for you.

**The Chair (Mr. Michael Prue):** I have three questions: first of all, Mr. Murdoch, then Mr. Leal and then Mr. Miller.

**Mr. Bill Murdoch:** On slide 3, why do we call it "A waste disposal site" is exempt?

**Ms. Melissa McDonald:** Because that's the definition that's provided for in the Environmental Protection Act.

**Mr. Bill Murdoch:** So you're saying the farmer's field is a waste disposal site?

**Ms. Melissa McDonald:** I'm saying that it would meet the definition of a waste disposal site in the Environmental Protection Act, if there are wastes applied to the field.

**Mr. Bill Murdoch:** Okay. It just seemed funny we would call it a waste disposal site, but that's basically what you're saying, then: That field is a waste disposal site?

**Ms. Melissa McDonald:** If there's waste being applied.

**Mr. Lou Rinaldi:** Like NASM.

**Ms. Melissa McDonald:** Well, remember, NASM is a waste under the EPA.

**The Chair (Mr. Michael Prue):** Mr. Leal.

**Mr. Jeff Leal:** Thanks very much, Mr. Chair.

Basically, as I understand it, this came about because throughout Ontario there were waste water treatment plants, there was dewatered sludge that was left over, and farmers would often buy the dewatered sludge, which eventually would be put on their fields, and there had to be a composition of the mixture of that before it was applied on the fields.

**Ms. Melissa McDonald:** I'm not familiar with the policy that would have prompted this particular framework.

**Mr. Jeff Leal:** But I think that's right; Bill, you were saying—

**Mr. Bill Murdoch:** Yes.

**Mr. Jeff Leal:** Okay. Thank you.

**The Chair (Mr. Michael Prue):** Mr. Miller.

**Mr. Paul Miller:** Now, with the certificate of approval, which is under the environmental act, farmers



were required to meet that regulation in the past. Is that not correct?

**Ms. Melissa McDonald:** If the particular waste that was being applied to the land was not otherwise exempt, that would be correct.

**Mr. Paul Miller:** So with the way things are going with chemicals and that—and farmers are using different compounds and different combinations of fertilizers, which would go into local streams, would go into catchment basins and would also go into water in the areas surrounding the farms, which would indirectly or directly impact—would go to a water treatment plant, which could go into the drinking water and things like that. The Environmental Protection Act, it's my understanding, especially in landfills and things like that, is there to protect the effluent that comes off those landfills and comes off the farms, that goes to the water waste treatment plants. So, to me, this is a bit of an end run around that regulation under the Environmental Protection Act, section 5, and what you've got now is unbridled usage of the land, depending on what chemicals, and when there's a combination of chemicals, they can cause major problems because of the reaction of the things in the chemicals that interact with each other, that then go into the streams from the farm, depending on the usage or what's being grown there. So what you've done here is exactly exempt the farms from further regulations, further red tape. Is that my understanding?

**Ms. Melissa McDonald:** What I would do is point you, first of all, to the purpose of the Nutrient Management Act, which is on slide 1. It states that it is "to provide for the management of materials containing nutrients in ways that will enhance protection of the natural environment and provide a sustainable future for agricultural operations and rural development."

My second point would be that both the Ministry of the Environment and the Ministry of Agriculture, Food and Rural Affairs worked on this package together.

**Mr. Paul Miller:** I don't know if that answers my question, but section 8—I don't really have the details of section 8 here, which describes the conditions that have to be met by the farmer under the NASM plan. Does it intersect or overrule anything in the environmental act in section 5?

**Ms. Melissa McDonald:** I'm not sure I understand your question.

**Mr. Paul Miller:** Okay.

**Mr. Bill Murdoch:** See, you've got to get that 267. You've got to get approval there.

**Mr. Paul Miller:** All right. You don't understand that? Do you want me to repeat it?

**Ms. Melissa McDonald:** Sure, if you could repeat the question, please.

**Mr. Paul Miller:** Okay. Section 8, which I don't have the details for, is now going to be under NASM, the non-agricultural source material plan. Would that be exempt from the Environmental Protection Act with this amendment?

**Ms. Melissa McDonald:** They have to meet those requirements that are set out in section 8.

**Mr. Paul Miller:** What are the requirements?

*Interjection.*

**Mr. Paul Miller:** Section 8, right?

**Ms. Melissa McDonald:** Section 8.3 states that a NASM plan area that satisfies the following requirements is exempt from part V of the EPA and reg 347 made under that act. It says:

"1. The NASM that is applied to the land or stored on it does not have,

"i. metal concentrations exceeding CM2,

"ii. pathogen levels exceeding CP2, or

"iii. an odour detection threshold exceeding OC3.

"2. The NASM plan and the management of NASM on the NASM plan area comply with this regulation."

This is the regulation as I copied it off E-laws.

**Mr. Paul Miller:** I guess my concern is that by creating this exemption in section 5 of the environmental act, any future new chemicals or future land use chemicals under the NASM plan may not be regulated as well as they are now under section 5. I'm concerned that it doesn't cover any future new chemical. I didn't see anything in the regulations to cover future chemical uses or future compounds that will be created, I'm sure, in the next few years.

Is this exempting NASM from the Environmental Protection Act in direction with future chemicals that may be used in the agricultural industry?

**Ms. Melissa McDonald:** The regulation that you were looking at doesn't go into what's happening in the future.

**Mr. Paul Miller:** Exactly.

**Ms. Melissa McDonald:** It's beyond the scope of what this regulation addresses.

**Mr. Paul Miller:** Okay. I have a problem with that. Thank you.

**The Chair (Mr. Michael Prue):** Further questions? Seeing none, discussion?

**Mr. David Caplan:** Can I move that we receive or adopt the report that came from—

**The Chair (Mr. Michael Prue):** We have already done that, as far as I know. We did that—

**Mr. David Caplan:** Not for this act, I don't believe.

**The Chair (Mr. Michael Prue):** Yes, I'm given to understand from the clerk that recommendation 1 was carried on December 8, 2010, on a vote of 5 to 1.

**Mr. David Caplan:** Great.

**The Chair (Mr. Michael Prue):** But it kept cropping up, and the last time was a request that they be brought forward. It has been adopted.

Is there anything else the members want to do? No? Okay.

**Mr. David Caplan:** I'll move that we receive the report of the two counsels and thank them for their attendance, and that this matter be closed.

**The Chair (Mr. Michael Prue):** We have a motion to thank the two counsels for their report. All those in favour? Opposed? That's carried. Thank you very much.

**Ms. Melissa McDonald:** Thank you.



**The Chair (Mr. Michael Prue):** The only thing that is left, then, on this entire report—I have two questions.

Shall the draft report be adopted, subject to the approval of the Chair, or, if you wish, subject to the approval of the members of the subcommittee of the committee? Agreed, to the Chair? That's agreed.

Upon receipt of the printed report, shall the Chair present the committee's report to the House and move the adoption of its recommendations? Agreed.

### COMMITTEE BUSINESS

**The Chair (Mr. Michael Prue):** All right. That takes us now to item number 2. You have all received a copy—and thank you very much, Andrew, for your work there. You've all received a copy of a letter from Mr. Marchese, Trinity-Spadina, asking that his bill, which had been referred to this committee, be allowed to proceed to public consultation. Everybody has a copy of that letter? Okay, any discussion?

Also, a letter was sent around—it's about 15 pages long—from Mr. Ernie Dellostritto, also asking that this bill be allowed to proceed, to hear depositions.

0920

**Mr. Paul Miller:** May I have a recorded vote on that?

**The Chair (Mr. Michael Prue):** First of all, I don't have a motion. Are you moving that we—

**Mr. Paul Miller:** I move a motion that we accept and move this ahead.

**The Chair (Mr. Michael Prue):** All right. We have a motion from Mr. Miller that Mr. Marchese's request be granted and that we proceed to hearing depositions. Any further discussion on that?

**Mr. Pat Hoy:** He's asked for a recorded vote?

**The Chair (Mr. Michael Prue):** He has asked for a recorded vote, so is there any further discussion on the motion that we proceed with this? Seeing none, on a recorded vote all those in favour?

*Interjection.*

**The Chair (Mr. Michael Prue):** He's missed the vote. We're going to do it again; he's missed his vote.

### Ayes

Paul Miller, Murdoch.

### Nays

Caplan, Hoy, Leal, Martiniuk, Rinaldi, Ruprecht.

**The Chair (Mr. Michael Prue):** That is defeated. The clerk will inform Mr. Marchese.

Finally, the last item is: A couple of meetings ago, it was the request of this committee that, as Chair, I write to MPAC, and specifically to the president and chief administrative officer, Carl Isenburg. He has very quickly written back to us. Everybody has a copy of that letter.

So it's in the committee's hands what you wish to do with the letter. Do you wish to receive it? Do you wish to take action on it? What do you wish to do?

**Mr. David Caplan:** If I may, Mr. Isenburg recommends a potential course of action as far as legislative amendment. I remember the conversation that we've had previously around religious orders coming forward on an individual basis. I think it might be appropriate for us to perhaps recommend the kind of legislative amendment to the government, to the appropriate ministry, as per the advice of Mr. Isenburg. I'd be interested in hearing some of the conversation, because I know that this is a matter that members of all sides have raised and would like to see some consistency applied to the various religious orders, the various communities who have historically enjoyed these particular rights.

**The Chair (Mr. Michael Prue):** I'm not sure whether I gleaned a motion out of that.

**Mr. David Caplan:** My motion would be that this committee recommends—the appropriate ministry would be the Ministry of Finance, I gather—that they consider an amendment to section 3 of the Assessment Act.

**The Chair (Mr. Michael Prue):** So we have a motion that we forward the request to the Minister of Finance concerning section 3, as per the letter of Mr. Isenburg.

**Mr. David Caplan:** So moved.

**The Chair (Mr. Michael Prue):** Discussion? Mr. Martiniuk.

**Mr. Gerry Martiniuk:** I agree with the resolution put forth by Mr. Caplan. I would say “strongly recommend,” because I think this committee has made its intentions clear that we don't like to see applicants spend a great deal of money when it could be an administrative rather than a quasi-judicial function. If we can save money for many of these religious groups, I'm certainly in favour of that, and I would therefore support Mr. Caplan's motion.

**The Chair (Mr. Michael Prue):** Is there an amendment to change the wording to “strongly recommend”?

**Mr. David Caplan:** I would accept it as a friendly amendment.

**The Chair (Mr. Michael Prue):** Okay, that's a friendly amendment. So it reads “strongly recommend.” Mr. Ruprecht.

**Mr. Tony Ruprecht:** While I certainly agree with the recommendation, I'm just wondering: Do we have a figure at all how much this would cost the province? I guess the real question would be what was the cost involved last year and the year before so we have some idea at all.

**The Chair (Mr. Michael Prue):** It's property tax. It would cost the municipality when we grant an exemption.

**Mr. Tony Ruprecht:** That's what this means, actually. Everybody comes before us anyway, and I agree with Mr. Martiniuk when he says we want to save people from the cost of coming here and wasting their time and our time. Essentially, that's what this means. But in addition to that, it may be a good idea to find out what the total cost is so we're not totally in the dark and so that



the Minister of Finance or the ministry officials can have an idea of a quick passage or a slow passage.

**Mr. Lou Rinaldi:** It just doesn't impact finance. It impacts municipalities.

**The Chair (Mr. Michael Prue):** Mr. Miller.

**Mr. Paul Miller:** I think Mr. Ruprecht is trying to give additional ammunition to the ministry to relieve them of the tax burden. How much is that going to affect the municipality at hand? It's simply an exemption for religious groups from the tax burden as well as from coming here to make changes to the requirements. I have no problem supporting that. But if I'm not mistaken, you want to show that it's going to save the applicants money and time and effort in coming here for something they shouldn't have to do. Is that what you're trying to say?

**Mr. Tony Ruprecht:** Yes.

**Mr. Paul Miller:** Okay. I don't have a problem with that. If you want to make an amendment to that, that's fine.

**The Chair (Mr. Michael Prue):** I haven't heard an amendment yet. Mr. Leal.

**Mr. Jeff Leal:** I digress from Mr. Ruprecht because essentially what we've seen is, when these applications come forward to this committee, there's usually a supporting letter from the municipality that the municipality passed a resolution that the exemption be made.

Mr. Isenburg has done us a great deal of service here. Prior to 1970, when municipalities had responsibility for assessment in Ontario, if you check back—I know I can just reflect on Peterborough—routinely, the municipality would pass such exemptions when they had the authority, the total responsibility, for assessment in the province of Ontario. So I think the precedent here is well established, and I think we should just move ahead with this.

**The Chair (Mr. Michael Prue):** Mr. Miller.

**Mr. Paul Miller:** I think there's one problem that this committee is overlooking: if the usage of the building for religious purposes changes. I've had churches that have folded in my area, that become daycare centres and things like that. You have to be careful that transferring the exemption—it can't be grandfathered. Some of these churches close down, and they even turn them into residences. We have to be very careful of how we're wording this. If it's going to be worded for the use that it's meant for—religion—that's fine, but some of these religious organizations, with all due respect, will switch and try to get income from parts of their building or other parts of the land that maybe should be required to pay taxes to the municipality. So be careful of how you word it. That's my warning.

**The Chair (Mr. Michael Prue):** Well, we have the motion. Back to Mr. Leal.

**Mr. Jeff Leal:** Quickly, Mr. Chair, I have great respect for what Mr. Miller just said. But what has come before us has been a series of applications by religious orders where there's been a significant decline in the number of participants. They had an exemption in the past, and they move into smaller quarters because of the decline in the number of nuns that are actually in these

religious orders. They can't afford to sustain their previous convents, which are rather large buildings. They had that tax exemption status for decades upon decades. They build a new convent, much smaller, and basically what they're asking is to have the status on their new convent that they enjoyed for decades in their old facility. That's been the history in the province of Ontario.

**The Chair (Mr. Michael Prue):** That's pretty much it in a nutshell. Mr. Miller.

**Mr. Paul Miller:** With all due respect, yes, I agree with the fact that they are building new, smaller facilities because they have a declining enrolment in their society or their religious group, or the membership of the congregations is smaller, as you know. But I'm saying that if they're moving in the same land or facility, that's fine, and they should continue with that exemption. But the former building, that may have been sold off—it may be 50 acres, depending on the religious organization, and it may turn into other usages. So I'm saying be careful, because you have to have a reassessment because the municipalities may be squawking and not happy that this land is now turned into a theme park or something.

You can't just paint it with one brush. I don't know if you're looking far enough ahead. I have seen many churches close in my area and turn into businesses, accounting offices—you name it. Small churches have turned into residences. You can't continue that exemption. You have to do a reassessment. CPAC would have to be informed of any changes. If we rubber-stamp this, and they go ahead and do it, the municipalities should be contacted to know that they've moved into a smaller thing. They still get the exemption, but what are we doing with the other 50 acres?

Do you see what I'm saying? We're not even looking at it.

**Mr. David Caplan:** That's not what's before us. All we're recommending to the Minister of Finance and the Ministry of Finance is that they take a look at section 3 of the Assessment Act, based upon a number of cases which have come forward to this committee, for some consistency; and that under the advice of the chair of MPAC, they do the appropriate investigation and take the appropriate action. That's all we're recommending here.

**Mr. Paul Miller:** That's the first time I've heard of MPAC involved, but okay.

**Mr. David Caplan:** The letter's from Mr. Isenburg, the chair of MPAC. That's all we're doing.

**The Chair (Mr. Michael Prue):** All right. The Ministry of Finance already has this, or at least the Minister of Finance—

**Mr. David Caplan:** But it will be a strong recommendation from this committee.

**The Chair (Mr. Michael Prue):** But this is the recommendation. Any other discussion on whether we go with this recommendation? Seeing none, all those in favour? Opposed? That carried unanimously.

Are there any other items that anyone has for today? Seeing none, meeting adjourned.

*The committee adjourned at 0931.*



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Mr. Kim Craiton (Niagara Falls L)

Mr. Jeff Leal (Peterborough L)

Mr. Gerry Martiniuk (Cambridge PC)

Mr. Paul Miller (Hamilton East–Stoney Creek / Hamilton-Est–Stoney Creek ND)

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Mr. Michael Prue (Beaches–East York ND)

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Mr. Tony Ruprecht (Davenport L)

#### **Substitutions / Membres remplaçants**

Mr. Pat Hoy (Chatham–Kent–Essex L)

#### **Also taking part / Autres participants et participantes**

Ms. Melissa McDonald, Ministry of the Environment

Ms. Shannon DeLeskie, Ministry of Agriculture,  
Food and Rural Affairs

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## Legislative Assembly of Ontario

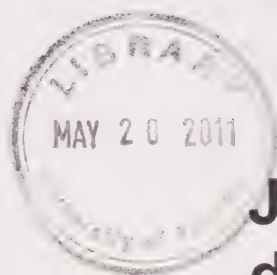
Second Session, 39<sup>th</sup> Parliament

## Assemblée législative de l'Ontario

Deuxième session, 39<sup>e</sup> législature

# Official Report of Debates (Hansard)

Wednesday 11 May 2011



# Journal des débats (Hansard)

Mercredi 11 mai 2011

**Standing Committee on  
Regulations and Private Bills**

**Comité permanent des  
règlements et des projets  
de loi d'intérêt privé**

Chair: Michael Prue  
Clerk: Valerie Quioc Lim

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## LEGISLATIVE ASSEMBLY OF ONTARIO

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE  
ON REGULATIONS  
AND PRIVATE BILLSCOMITÉ PERMANENT DES  
RÈGLEMENTS ET DES PROJETS DE LOI  
D'INTÉRÊT PRIVÉ

Wednesday 11 May 2011

Mercredi 11 mai 2011

*The committee met at 0901 in room 151.*

## BIG A AMUSEMENTS LTD. ACT, 2011

Consideration of Bill Pr47, An Act to revive Big A Amusements Ltd.

**The Chair (Mr. Michael Prue):** Okay, we're going to call the meeting to order. Two of the movers are not present, so we'll ask Mr. Rinaldi to proceed. This is Bill Pr32, An Act to revive 1518186—

*Interjection.*

**The Chair (Mr. Michael Prue):** You're late, sir. Unless you want to step down—Mr. Delaney has asked if he can proceed first, because he is required to be in the House. If you don't mind?

**Mr. Lou Rinaldi:** Absolutely. I don't mind whatsoever.

**The Chair (Mr. Michael Prue):** All right. Then we'll start again.

The floor is yours, Mr. Delaney. We're going to revert to Bill Pr47, An Act to revive Big A Amusements Ltd., Mr. Delaney. Mr. Earl S. Heiber, barrister and solicitor, is here as well. Please join us. The floor is yours.

**Mr. Bob Delaney:** Good morning, everybody. I believe Mr. Heiber will walk us through the balance of this particular bill.

**Mr. Earl Heiber:** Thank you. This is a bill to revive a corporation called Big A Amusements Ltd. The company was dissolved voluntarily. Unfortunately, it was dissolved without the consent of the shareholder at the time. The corporation's accountant was not able to contact the shareholder, who had a bit of dementia, and he took it upon himself to dissolve the corporation by signing the signature of the shareholder's spouse. As a result, the company was dissolved voluntarily.

The accountant did not know at the time that the corporation continued to hold assets. It had held a building at 114 Alice Street, Brantford, Ontario, and had cash in a bank account of approximately \$100,000.

We have brought this application to this committee for the purpose of reviving the corporation to enable the corporation to deal with its assets.

**The Chair (Mr. Michael Prue):** Okay. Is there anything further?

*Interjection.*

**The Chair (Mr. Michael Prue):** Ah, so I don't miss any of the stages. Thank you.

Are there any other interested parties? Any interested parties? The parliamentary assistant, any comments?

**Mr. Lou Rinaldi:** No comments, Chair.

**The Chair (Mr. Michael Prue):** No comments. Any questions from committee members? Mr. Miller.

**Mr. Paul Miller:** I'm just curious: You said that the accountant signed someone's name. Was the accountant the trustee?

**Mr. Earl Heiber:** No.

**Mr. Paul Miller:** That's interesting.

**Mr. Earl Heiber:** It was disturbing.

**Mr. Paul Miller:** They signed a name without permission, and no other family members were contacted; the person with dementia didn't know?

**Mr. Earl Heiber:** That's absolutely correct.

**Mr. Paul Miller:** So were there any charges?

**Mr. Earl Heiber:** No. We've tried to reach the accountant. He retired shortly thereafter. The CICA refused to give his contact information.

**Mr. Paul Miller:** Is he related to Bernie Madoff?

**Mr. Earl Heiber:** He might be.

**Mr. Paul Miller:** Okay. It was just a question. I found that a little unusual, but okay, I guess. It's interesting.

**Mr. Bill Murdoch:** He is in Hamilton, right?

**Mr. Paul Miller:** No, he's not from Hamilton. He's probably from up north.

**The Chair (Mr. Michael Prue):** Are there any other questions? Seeing none, are the members ready to vote?

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed? Agreed.

Thank you very much.

## 1518186 ONTARIO INC. ACT, 2011

Consideration of Bill Pr32, An Act to revive 1518186 Ontario Inc.

**The Chair (Mr. Michael Prue):** The next item: Mr. Rinaldi. This is Bill Pr32, An Act to revive 1518186 On-



tario Inc. Mr. Rinaldi is the sponsor, and I have Matt Gemmell, lawyer, listed as well. Would that be you, sir?

**Mr. Matt Gemmell:** That is.

**The Chair (Mr. Michael Prue):** Okay, perfect. Mr. Rinaldi, the floor is yours.

**Mr. Lou Rinaldi:** Thank you, Chair. At this stage, the bill is fairly self-explanatory, but I'll ask my solicitor to the right to give a little bit more insight.

**Mr. Matt Gemmell:** Good morning, members. I'm here with respect to An Act to revive 1518186 Ontario Inc. The corporation was voluntarily dissolved on March 6, 2006. At the time, it was overlooked that the corporation held a mortgage on a piece of property. It recently came to light, when this property was being sold, that that mortgage still existed on the property, and in order to discharge the mortgage and properly deal with the mortgage, we'd ask to revive the corporation.

**The Chair (Mr. Michael Prue):** Are there any other interested parties in the room on this matter?

Seeing none, parliamentary assistant, any comments? I don't know how you do that.

**Mr. Lou Rinaldi:** My only comment is that the Rolins family, although they're not directly—well, partly in my riding, but in the adjacent riding—they've been very well respected business folks in the community for years and years. That's my comment, and we have no objection.

**Mr. Paul Miller:** Is that a plug?

**Mr. Lou Rinaldi:** Of course. It's an advertisement.

**The Chair (Mr. Michael Prue):** Okay. Any questions from committee members? Mr. Miller?

**Mr. Paul Miller:** I don't want to be facetious, but do these lawyers do their work originally? Because we see so many times that they don't do the research on assets of a corporation. Once again, here we are with some lawyer who didn't check the mortgage out before he discharged or before he did the—I don't know. I think some of these guys are overpaid.

**The Chair (Mr. Michael Prue):** I don't think you need to answer that. I'm not even sure whether he was the lawyer who arranged it in the first place.

**Mr. Paul Miller:** Well, okay. All right.

**Mr. Matt Gemmell:** It was actually dissolved by the accountants.

**Mr. Paul Miller:** Same guy?

**Interjection:** Same guy.

**Mr. Paul Miller:** Oh, I understand now.

**The Chair (Mr. Michael Prue):** Are there any other questions? No other questions. Let me just make sure I get all the right things done here. Okay.

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed? Agreed. Thank you very much.

**Mr. Paul Miller:** Lou, say hi to those nice people from your riding. Maybe they'll vote NDP next time.

## FARADALE FARMS LTD. ACT, 2011

Consideration of Bill Pr46, An Act to revive Faradale Farms Ltd.

**The Chair (Mr. Michael Prue):** The next item is under the name of Mr. Murdoch. It's Bill Pr46, An Act to revive Faradale Farms Ltd. I have here listed Ross H. Thomson as the lawyer. Would you be Mr. Thomson, sir?

**Mr. Ross Thomson:** I am.

**The Chair (Mr. Michael Prue):** Very good. All right, Mr. Murdoch, the floor is yours.

**Mr. Bill Murdoch:** As you can see in the preamble—and I'm sure my friend Paul will like this one, too.

**Mr. Paul Miller:** Probably.

**Mr. Bill Murdoch:** It's sort of the same thing. My good friend the lawyer here will explain it all to you. But I don't know whether he did this or not.

**Mr. Ross Thomson:** This is a variation on the theme. It's not due to an accountant signing documents or filing things; it's due to perhaps stupidity, ignorance or something like that.

### 0910

This farm corporation was established in 1979 and was dissolved by fiat—in other words, by the government—for failure to file the requisite tax returns. What had happened was that they had basically stopped using the corporation for the farming operations. They're a small group of people; there were three brothers originally involved in the corporation. They stopped using the corporation and let it go to the side.

For whatever reason, which remains somewhat obscure, they didn't file tax returns. We attempted to get them to sort of get their act together for a number of years, without success, before we had to come to this stage. Finally, we got their attention, as indicated in some of the material that has been filed.

A few years ago, the county of Bruce took a piece of property from this farm property for road purposes, and the owners, on behalf of Faradale Farms, signed the appropriate deed. The problem was, having lost its charter, the corporation did not have the legal authority to give the county the deed, so the public are travelling down a road that the county of Bruce thinks they own but they don't. There are some mortgages on title and things that need to be done in order to transfer the property and deal with the lands that are owned by the corporation.

We filed all the income tax returns, we've got the clearance certificate from the Ministry of Finance and we're now here asking for revival of the corporation.

**The Chair (Mr. Michael Prue):** Thank you very much. Are there any interested parties in the room? Any interested parties? Seeing none, any comments, parliamentary assistant?

**Mr. Lou Rinaldi:** No comments, Chair.

**The Chair (Mr. Michael Prue):** No comments. Any questions from committee members? Mr. Miller.

**Mr. Paul Miller:** So this county is in kind of a bind because they don't own the property—something like the 406. We don't own it, right—something like that—so you're trying to clear it up so that the county can take control of the deeded property?

**Mr. Ross Thomson:** That's a side benefit. I really want to get the corporation revived so that the corporation can deal with the farmland that it owns.

**Mr. Paul Miller:** Okay. And how do the farmers fit into this? Do they get some kind of rebate or something for signing the deed?

**Mr. Ross Thomson:** No.

**Mr. Paul Miller:** No?

**Mr. Ross Thomson:** I mean, the owner of the property has already been paid for the conveyance to the county.

**Mr. Paul Miller:** So it's just tidying up another error.

**Mr. Ross Thomson:** It's just tidying up.

**Mr. Paul Miller:** Okay. Thanks.

**Mr. Bill Murdoch:** Just for the record, there are lots of them out there.

**Mr. Paul Miller:** Errors?

**Mr. Bill Murdoch:** It will keep this committee going for a long time.

**Mr. Paul Miller:** Bill, you're in charge of that area. I'm a little concerned.

**Mr. Bill Murdoch:** Yeah, well—

**Mr. Ross Thomson:** That's why he's retired.

**Mr. Bill Murdoch:** I'm moving south of the accountant.

**Mr. Paul Miller:** All right.

**The Chair (Mr. Michael Prue):** Okay. Any other questions from committee members? Seeing none, we'll go to votes.

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Thank you very much.

#### SUBCOMMITTEE REPORT

**The Chair (Mr. Michael Prue):** This brings us to the last item on the agenda. It's the report of the subcommit-

tee on committee business, dated April 20, 2011. Mr. Rinaldi.

**Mr. Lou Rinaldi:** Your subcommittee on committee business met on Wednesday, April 20, 2011, to consider the method of proceeding on Bill 92, An Act to require automatic sprinklers in all Ontario retirement homes, and recommends that the committee do not proceed with the consideration of the bill.

**The Chair (Mr. Michael Prue):** You have the report before us. Any discussion?

**Mr. Paul Miller:** One comment: Absolutely outrageous. End of comment.

**The Chair (Mr. Michael Prue):** Okay, we have a motion to accept the subcommittee report.

**Mr. Paul Miller:** I want a recorded vote.

#### Ayes

Craitor, Leal, Rinaldi.

#### Nays

Paul Miller, Murdoch.

**The Chair (Mr. Michael Prue):** The motion carries. Is there any other business before the committee?

**Mr. Bill Murdoch:** I've got just a small one. Did I hear right in the House yesterday that a bill was put to our committee, sort of similar to the sprinkler bill?

**Mr. Paul Miller:** Could have.

**Mr. Bill Murdoch:** Well, does anybody remember that? It was a private bill or a bill, and I heard him say it was coming to our committee. I just wondered why that bill would come here when we didn't do that bill.

**Mr. Lou Rinaldi:** I don't remember.

**Mr. Paul Miller:** They probably directed it here because they knew they could shoot it down.

**Mr. Bill Murdoch:** Well, I don't know. I just thought, "That's funny. We're getting some of these bills now." It's okay.

**The Chair (Mr. Michael Prue):** I will have the clerk check whether or not that bill is coming to our committee. I was not in the House to hear that.

**Mr. Bill Murdoch:** I didn't question it at the time. I just thought, "Gee, that's funny. I'll ask at committee." You know, it's something to find out.

**The Chair (Mr. Michael Prue):** Any other business for the committee?

Seeing none, the meeting is adjourned.

*The committee adjourned at 0915.*









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Mr. Jeff Leal (Peterborough L)

Mr. Gerry Martiniuk (Cambridge PC)

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## Legislative Assembly of Ontario

Second Session, 39<sup>th</sup> Parliament

## Assemblée législative de l'Ontario

Deuxième session, 39<sup>e</sup> législature

# Official Report of Debates (Hansard)

Wednesday 18 May 2011

# Journal des débats (Hansard)

Mercredi 18 mai 2011



Standing Committee on  
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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE  
ON REGULATIONS  
AND PRIVATE BILLS

Wednesday 18 May 2011

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES  
RÈGLEMENTS ET DES PROJETS DE LOI  
D'INTÉRÊT PRIVÉ

Mercredi 18 mai 2011

*The committee met at 0901 in room 151.*

## 917866 ONTARIO INC. ACT, 2011

Consideration of Bill Pr48, An Act to revive 917866 Ontario Inc.

**The Chair (Mr. Michael Prue):** We'll call the meeting to order. The first item is Bill Pr48, An Act to revive 917866 Ontario Inc.

Mr. Murdoch is substituting for Christine Elliott. Mr. Murdoch, the floor is yours.

**Mr. Bill Murdoch:** As you can see, we did a couple of these last week; another one of those corporations that has to be revived because they've got to get rid of some land or something like that. Last week we discovered, I think, that it was either the accountants or the lawyers who messed it up. We really didn't know which it was.

**Mr. Edward Marks:** It wasn't me. It was the accountant.

**Mr. Bill Murdoch:** Okay. And some of them are our friends, so we didn't think it was them. In this case, we don't know each other so we're liable to blame the lawyers in this one.

I think it's straightforward, as you can see from the preamble. That's really all I have to say. I think we can just go ahead with it, unless there's something somebody has.

**The Chair (Mr. Michael Prue):** Then I would ask the applicant to introduce himself for the purpose of Hansard. You are Mr. Marks?

**Mr. Edward Marks:** Edward Marks, counsel for the applicants.

**The Chair (Mr. Michael Prue):** All right. Anything you have to say on this issue?

**Mr. Edward Marks:** Mr. Chairman, members of the committee, we would respectfully request that you pass this onto the Legislature with a positive approval. This is an unfortunate situation. The company was dissolved unbeknownst to me. I acted on the sale of property in Port Hope. The numbered company held a mortgage. It was discharged in 2010 but I found out after the fact that the company had actually been dissolved in 2005. All the money for the discharge is being held by the bank. They won't release it. It's in a suspense fund until this company is revived. My client has had no use of the money

since December, when the deal closed. That's the explanation for asking that the corporation be revived.

**The Chair (Mr. Michael Prue):** Are there any interested parties in the room who want to speak to this? Any other interested parties?

Seeing none, Parliamentary Assistant, any comments from the government?

**Mr. Lou Rinaldi:** No. We have no objection to this.

**The Chair (Mr. Michael Prue):** There is something. If I could draw to your attention, if you might have a comment—

**Mr. Paul Miller:** I have a question—

**The Chair (Mr. Michael Prue):** I'll leave that and I'll go straight to Mr. Miller.

**Mr. Paul Miller:** Yes, 7(b): "a statement that the companies and personal property security branch of the Ministry of Government Services and the corporations tax branch of the Ministry of Finance have been consulted including an indication as to whether either ... Ministry of Finance are not prepared to consent to the revival until they are satisfied all corporate income has been declared."

Has that been done?

**Mr. Edward Marks:** I personally delivered the corporate tax returns to the ministry in Oshawa and they've approved it.

**Mr. Paul Miller:** Okay. Thank you.

**The Chair (Mr. Michael Prue):** Any other questions? Anyone? Are the members ready to vote?

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Thank you very much.

**Mr. Edward Marks:** Thank you very much.

**Mr. Kim Craitor:** Is that it?

**Mr. Paul Miller:** That's it.

**The Chair (Mr. Michael Prue):** No.

## DRAFT REPORT ON REGULATIONS

**The Chair (Mr. Michael Prue):** The next item is either a short one or a long one, depending on how



people wish to proceed. This is the draft report on regulations made in 2010. Mr. McNaught is here, the counsel and research officer. We can go through the draft report.

In the past, we've dealt with draft reports sometimes in one day, sometimes over many months. As you are aware, this is the second-last meeting of this committee, and if it does not look like we can finish it, we may have to make a motion to forward it to November or December, when the House returns. But be that as it may, Mr. McNaught, I'll leave the floor to you.

**Mr. Paul Miller:** So are we making a motion to move it to November?

**The Chair (Mr. Michael Prue):** I think Mr. McNaught may want to speak to it very briefly, and then we'll make a decision on what to do.

**Mr. Paul Miller:** Okay.

**Mr. Andrew McNaught:** It's difficult to predict how long these things will take. We're reporting seven regulations in this draft report. Some of them are difficult or technical issues. As I say, I have no way of predicting whether we could get through it today or whether it would take more than one meeting, but I'm prepared to go ahead.

**The Chair (Mr. Michael Prue):** Is there any discussion? Do people want to try to see whether we can get through it, or do you want to put it to November?

**Mr. Paul Miller:** Just a question: Is there anything that's expedient, anyone waiting on any decisions, or is there anything that has to be done before the summer that's important to anyone here? Or is this something that can be dealt with in November?

**Mr. Andrew McNaught:** There's no time requirement here. This could be moved back or moved to the next Parliament, if you wish. The committee's mandate is to report from time to time.

**Mr. Paul Miller:** Right. But it doesn't affect anyone out in the public or hold them back from achieving any goals, or—

**Mr. Andrew McNaught:** No.

**Mr. Paul Miller:** Okay.

**Mr. Tony Ruprecht:** I'm prepared to make a motion, Mr. Chair.

**The Chair (Mr. Michael Prue):** Mr. Ruprecht wishes to make a motion. Yes?

**Mr. Tony Ruprecht:** I move that this report be stood down until November.

**The Chair (Mr. Michael Prue):** I think it would be appropriate to receive the report and refer it to the first meeting of the regulations and private bills committee following the October election. I think that's the way it would have to be worded. Is that your motion?

**Mr. Tony Ruprecht:** That is the motion.

**Interjection:** That's a good motion.

**Mr. Tony Ruprecht:** That's a very good motion.

**Mr. Bill Murdoch:** The only thing I would say on that is that if you have difficulty when you get back here next year and you need me, I'll be around somewhere in the country. You may have to bring me in just to help keep the peace.

**The Chair (Mr. Michael Prue):** I think that is true of all of us: No one knows for sure who's going to be here.

**Mr. Bill Murdoch:** Well, I know for sure.

**The Chair (Mr. Michael Prue):** But we do know 107 bodies will be sitting upstairs.

**Mr. Tony Ruprecht:** Can I get Mr. Miller's agreement on this so that it will be unanimous?

**Mr. Paul Miller:** What do you think, Mr. Kormos?

*Interjections.*

**Mr. Peter Kormos:** I don't know. Dangerous.

**Mr. Paul Miller:** Dangerous? Mr. Kormos is kind of in a grey area, so I'll say okay.

**The Chair (Mr. Michael Prue):** All right, so we have a motion. Is there any other discussion? All those in favour of the motion? Opposed? That's carried.

Any other items for today? Are there any other items?

**Mr. Kim Craitor:** At least we closed unanimously. That's really nice.

**Mr. Paul Miller:** We've got one more meeting yet.

**Mr. Kim Craitor:** No, this one.

**Mr. Peter Kormos:** The Liberals don't want to work?

**Mr. Paul Miller:** No, actually, it's all of us today.

**The Chair (Mr. Michael Prue):** Okay, then, the meeting is adjourned.

*The committee adjourned at 0908.*











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